

CRM-M-22437-2017

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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Date of Decision:01.09.2017

Kinder Sahota

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Lakhwinder Singh Mann, Advocate,
for the petitioner.

INDERJIT SINGH, J.

Petitioner-Kinder Sahota has filed this petition under Section 482 Cr.P.C. for quashing of the order dated 21.07.2014 (Annexure P-8) whereby the petitioner has been illegally declared as proclaimed offender in violation of Section 82 Cr.P.C. in FIR No.34 dated 13.04.2014, registered at Police Station Bilga, District Jalandhar City, under sections 307, 323, 341, 148 and 149 IPC and Sections 25 and 27 of the Arms Act and further for issuance of direction to the prosecution to file cancellation report/police report against the petitioner on the basis of inquiry dated 17.10.2014.

Notice of motion has been issued. On the asking of Court, Mr.Gaurav Garg Dhuriwala, Sr. DAG, Punjab has accepted notice on behalf of the respondent-State and contested the instant petition.

I have heard learned counsel for the petitioner and gone through the record.

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From the record, I find that first of all, no direction can be given by the court to the investigating officer to file cancellation report on the basis of inquiry report dated 17.10.2014. It is the prerogative of the investigating officer to file final report under Section 173 Cr.P.C. or cancellation report. The investigating officer cannot be directed to act in one direction or in another words to accept the inquiry report and file cancellation report. It amounts to inference in the investigation. Therefore, the claim of the petitioner directing the investigating officer to file cancellation report has no merit and the same is declined.

As regards the quashing of the order dated 21.07.2014 whereby the petitioner has been declared as proclaimed offender, I find that perusal of the record shows that as per Annexure P-5, which is the report of Shamsher Singh, Constable wherein it is stated that he had received the proclamation for its publication and gone to the given address on 27.06.2014 alongwith Jeet Ram, Chowkidar and one copy of the proclamation has been got affixed at the door of the house of the accused. As per Annexure P-5, the proclamation has been published on 27.06.2014. As per the mandatory provisions of Section 82 Cr.P.C., minimum time of 30 days should be given to the accused to appear on a specified time, date and place, but as per the impugned order (Anenxure P-8), the petitioner has been declared proclaimed on 21.07.2014 i.e. within 30 days of publication of the proclamation. Therefore, the impugned order dated 21.07.2014 (Anenxure P-8) is illegal on the face of it and is liable to be set aside accordingly.

As a result of above discussion, the instant petition is partly allowed to the extent that the impugned order dated 21.07.2014 (Annexure

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P-8), vide which the petitioner has been declared proclaimed offender in FIR No.34 dated 13.04.2014 (Annexure P-1), is set aside.

01.09.2017

parveen kumar

**(INDERJIT SINGH)
JUDGE**

Note:	Whether speaking/reasoned	:	Yes
	Whether reportable	:	No