

CRM-M-33148 of 2017

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

CRM-M-33148 of 2017
Date of Decision: 07.09.2017

Roopali @ Ruby

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Gaurav Tyagi, Advocate, for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Prayer in the instant petition under Section 482 Cr.P.C. has been made for setting aside order dated 22.02.2014 (Annexure P-1) passed by learned JMIC, Gurugram in case FIR No.11 dated 13.01.2012 under Sections 380/457 IPC registered at Police Station Manesar, Gurugram.

When petitioner Roopali @ Ruby could not be served even through non-bailable warrants, her presence was ordered to be secured through proclamation under Section 82 Cr.P.C. vide order dated 12.12.2013. Pursuant thereto, proclamation notice was issued on 18.01.2014 for 19.02.2014. The serving constable went to serve the same on 22.01.2014 and upon non-availability of the petitioner, one copy of the publication was affixed upon the locked house of the petitioner, another copy was affixed at the conspicuous place of the Village and third copy was affixed outside the Court premises.

Section 82 Cr.P.C. is reproduced hereunder: -

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“82. Proclamation for person absconding. - (1) If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.

(2) The proclamation shall be published as follows:-

(i) (a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;

(b) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village;

(c) a copy thereof shall be affixed to some conspicuous part of the Court- house;

(ii) the Court may also, if it thinks fit, direct a copy of the proclamation to be published in a daily newspaper circulating in the place in which such person ordinarily resides.

(3) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day, in the manner specified in clause (i) of sub- section (2), shall be conclusive evidence that the requirements of this section have been complied with, and that the proclamation was published on such day.”

On 19.02.2014 since 30 days had not elapsed in view of provisions of Section 82 Cr.P.C., therefore, the case was adjourned to 22.02.2014. It is evident that though the proclamation notice was issued on 18.01.2014, but its publication was effected for the first time on 22.01.2014 thereby directing the petitioner to appear before the Court on 19.02.2014.

Till 19.02.2014, 30 days time was not given to the petitioner for appearance.

Therefore, it can safely be held that passing of the impugned order dated 22.02.2014 is illegal in view of provisions of Section 82 Cr.P.C..

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In view of above, impugned order dated 22.02.2014 is set aside and the petition is disposed of accordingly.

September 07, 2017
R.S.

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No