

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANIDGARH

201

CRM-M-23532 of 2015 (O&M)

Date of Decision: 23.07.2019

Balbir @ Bali

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. S.K. Garg Narwana, Sr. Advocate with
Mr. Japjit Singh , Advocate
for the petitioner.

Mr. Munish Bansal, DAG, Haryana.

Mr. R. Kartikeya, Advocate
for respondents No.2 and 3.

Mr. Vivek Sethi, Advocate
for respondent No.4.

ANIL KSHETARPAL, J (ORAL)

Challenge is to the order dated 10.10.2014 passed by learned Additional Sessions Judge, Rohtak vide which the petitioner was declared proclaimed offender and the order dated 23.01.2015 refusing to recall the order dated 10.10.2014.

Learned senior counsel appearing for the petitioner has pointed out that the petitioner was arrested, remained in custody for a period of approximately 3 years and thereafter, released on regular bail which fact is contested by learned State counsel, on instructions from ASI Ravinder. Be that as it may, the petitioner was declared proclaimed offender on the basis of report which is extracted as under:-

“It is prayed that on 8.9.2014 inquiry was made regarding accused Balbir @ Bali s/o Risal Singh, Caste Jat R/o Mokhra Panna Khandan by visiting his house in village Mokhra who was not found in the house. Inquiry was made from the neighborhood. Nothing has found. One copy of the proclamation was pasted on the house of Balbir @ Bali in presence of persons of the village mentioned below. And one copy was pasted on the thorough passage of the village. And third copy was pasted on the notice board of the Court. And one copy after making report is presented.

Sd/- Jasbir

Sd/- Ramchander

Jasbir s/o Ran Singh

Ram Chander s/o Nafe Singh

Caste Jat, R/o Mokhra

Caste Jat, R/o Mokhra”

(Note: Translation is not happily worded).

Learned senior counsel while drawing attention of the Court to Section 82 sub-section 2(i)(a) has submitted that the procedure for publishing of proclamation was not followed as there is no report that the proclamation has been publicly read in some conspicuous place of the town or the village in which the person ordinary resides. Learned counsels for the respondents are unable to dispute this position. In any case, the purpose of declaring a person as proclaimed offender is to secure his presence. Undisputedly, the petitioner thereafter, has already been arrested. It will be noted here that learned counsel for the petitioner has drawn attention of the Court to various reports submitted by the officials who went to serve the petitioner either at the time when bailable or non-bailable warrants were issued had also reported that the petitioner has gone for treatment of heart ailment.

In view of the fact that undisputedly the proclamation was not publicly read in some conspicuous place of the town or the village, the order under challenge is set aside subject to the condition that if the petitioner has

already been released on bail, he shall continue to appear in the trial Court in the main criminal case under Section 302 of the Indian Penal Code.

Hence, the petition is allowed.

23.07.2019

D.Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No