

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of decision: 06.09.2019

1. CRM-M-25729 of 2019 (O&M)

Himani Sharma

..... Petitioner

Versus

State of Haryana

..... Respondent

2. CRM-M-25883 of 2019 (O&M)

Abhishek Bhandari

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Inderjeet Singh, Advocate
for the petitioner (in both petitions).

Mr. Vikas Chopra, DAG, Haryana.

ANIL KSHETARPAL, J.(ORAL)

By this order, CRM-M-25729 of 2019 and CRM-M-25883 of 2019 shall stand disposed of.

Petitioners in both the petitions are husband and wife.

Facts are being taken from CRM-M-25729 of 2019.

Challenge is to the order passed by the learned Judicial Magistrate Ist Class declaring the petitioners as proclaimed person on 04.08.2017. The petitioner is an accused in a criminal case pending before the Judicial Magistrate. The petitioner appeared before the Judicial

Magistrate but thereafter absented. The Judicial Magistrate ordered that the proceedings under Section 82 Cr.P.C. be initiated. Pursuant to the aforesaid directions, statement of Anil Kumar, Constable was recorded which reads as under:-

“Stated that I went to the given address and Incharge of The Sai Kids World met there, who stated that Himani Sharma is not residing here. She went away from there about 3-4 years ago and I have no knowledge about them. One copy of the advertisement/notice given by the Hon'ble Court has been openly pasted on the wall in front of the house and second copy has been pasted on the notice board of this Hon'ble Court and third copy along with my report is submitted before you, which is Ex.PA. I had pasted the same on 20.03.2017.”

Pursuant to the aforesaid statement, the Judicial Magistrate passed the following order:-

“An application for exemption on behalf of accused Sohan Singh moved. Heard. In view of contents mentioned in the application, the same is hereby allowed. Personal appearance of accused is exempted for today only.

Despite repeated calls of the case, accused Abhishek and Himani did not turn up before the Court. No further wait is justified. Accordingly accused Abhishek and Himani are declared as Proclaimed Person. Now case is adjourned to 20.09.2017 for arguments on notice of acquisition.”

Learned counsel for the petitioner submits that there is no compliance of clause (i)(a) of sub-section 2 of Section 82 of the Code of Criminal Procedure as the notice was not publicly read at some conspicuous place of the town or the village in which such person ordinary resides. He submits that from the reading of statement of the police official who carried out publication, it is apparent that there was non-compliance of mandatory provision referred to above. Learned counsel for the respondent-State is

unable to dispute this position.

Keeping in view the aforesaid facts, the petitioners (in both petitions) are directed to appear before the trial Court within one month on furnishing of their fresh bail bonds with surety to the like amount to the satisfaction of the concerned trial Court.

In view thereof, the order under challenge i.e. dated 04.08.2017 is set aside.

With these observations, both the petitions are disposed of.

06.09.2019

D.Bansal

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No