

CRM-M-23522 of 2019

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

CRM-M-23522 of 2019
Date of Decision: 03.02.2020

Amar Nath

...Petitioner

Versus

The State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. Kulwinder Singh, Advocate,
for Mr. Lovkesh Gupta, Advocate, for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C. petitioner has assailed order dated 28.01.2019 of the trial Court, declaring him as proclaimed person.

Briefly, presence of the petitioner could not be secured in case FIR No.196 dated 23.12.2017 registered under Sections 420 and 406 IPC at Police Station Lambra, District Jalandhar, by the trial Court in ordinary course, even despite issuance of hisailable and non-bailable warrants. Finding no option, the trial Court, satisfying, that presence of the petitioner cannot be secured in ordinary course, vide order dated 30.08.2018 ordered for his proclamation under Section 82 Cr.P.C. for 01.11.2018. Pursuant thereto, Constable Balwinder Kumar effected proclamation of the petitioner on 31.10.2018 and submitted his report Ex.P2. Since on that day mandatory period of 30 days had not expired, therefore, trial Court adjourned the case

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for 04.12.2018 and then to 28.01.2019 for awaiting appearance of the petitioner. However, when the petitioner, despite elapse of more than two months, did not appear, trial Court declared him proclaimed person vide impugned order dated 28.01.2019.

Learned counsel for the petitioner relying upon an order of a Co-ordinate Bench of this Court in ***CRM-M-20941 of 2019 (Sabir v. State of Haryana)*** passed on 19.07.2019 *inter alia* contends that trial Court illegally declared the petitioner as a proclaimed person, ignoring the statement of Panch Ram Saroop, who had stated before the serving Constable Balwinder Kumar that no person in the name of the petitioner ever lived in their village Hussainpur. Trial Court was required to wait for 30 days from the date of alleged proclamation of the petitioner on 30.10.2018.

Having given thoughtful consideration to the above submissions, this Court finds the instant petition completely devoid of any merit for the reasons to follow.

Learned counsel has heavily relied upon statement of Panch Ram Saroop before serving Constable Balwinder Kumar that no person in the name of the petitioner lives in their village Hussainpur. However, contrary to it, petitioner himself in the memo of parties has shown himself to be a resident of Village Hussainpur. Thus, it is apparent on the record that the statement of Panch Ram Saroop is false or manipulated one.

Facts and circumstances of the order relied upon by learned counsel for the petitioner are not identical to the facts of present case inasmuch as in that case proclamation of the petitioner was ordered on

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11.05.2015 for 29.05.2015. In these circumstances, it was held that clear-cut 30 days' notice as required under Section 86 Cr.P.C. was not given, whereas in the instant case, trial Court gave around three months to the petitioner to appear after publication of his proclamation on 30.10.2018 inasmuch as he was declared proclaimed person on 28.01.2019.

In view of discussion made above, this Court does not find any illegality or perversity in the impugned order.

Dismissed.

February 03, 2020
R.S.

(RAMENDRA JAIN)
JUDGE

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