

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

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**CRM-M-38574-2021 (O&M)
Date of Decision: 24.11.2021**

Sukhchain Singh ...Petitioner

Versus

State of Punjab & another ...Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. D.S.Bhinder, Advocate, for the petitioner.

Mr. Harbir Sandhu, AAG, Punjab.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks quashing of an order dated 10.03.2017 (Annexure P-6) passed by the learned Judicial Magistrate Ist Class, Barnala, whereby he has been declared a 'proclaimed offender' in a complaint case bearing COMA No.236 of 2014 dated 22.07.2014 titled 'Gurdeep Singh Vs. Sukhchain Singh'.
2. At the time of notice of motion on 08.11.2021, the following order was passed:

“By way of this petition, the petitioner assails order dated 10.3.2017 passed by learned Judicial Magistrate 1st Class, Barnala, vide which he has been declared a 'Proclaimed Offender'.

A perusal of the zimni order dated 22.11.2016 (Annexure P-12) would show that the trial Court had ordered for issuance of proclamation in terms of Section 82 Cr.P.C. for 6.2.2017.

However, the proclamation notice (Annexure P-7) came to be issued on 24.1.2017 directing the accused to appear on 6.2.2017.

A perusal of the statement dated 25.1.2017 (Annexure P-8) of the serving official shows that the proclamation was effected on 25.1.2017.

When the matter was taken up before the trial Court on 6.2.2017, i.e. the date fixed for causing appearance of the accused, the trial Court further adjourned the matter as a period of 30 days had not expired and it was subsequently on 10.3.2017 that the accused came to be declared a 'Proclaimed Offender'.

From perusal of the aforesaid order/proclamation notice, it transpires that the mandatory period of 30 days for causing appearance on the nominated date after effecting proclamation has not been afforded to the petitioner which is not in spirit of the provisions of Section 82 Cr.P.C.

Notice of motion for 24.11.2021.

Meanwhile, operation of impugned order dated 10.3.2017 (Annexure P-6) shall remain stayed."

3. The facts, as noticed in the order reproduced above, would show that a clear period of 30 days from the date proclamation was actually effected i.e. 25.01.2017 till the date nominated for causing appearance as per proclamation notice (Annexure P-7) i.e. till 06.02.2017 was not afforded to the petitioner.
4. Learned State counsel could not dispute the aforesaid factual position.
5. Bearing the aforesaid factual position in mind and also in view of the law laid down in Ashok Kumar Vs. State of Haryana 2013(4) R.C.R. (Criminal) 550, the instant petition is accepted and the impugned order dated 10.03.2017 (Annexure P-6) passed by learned Judicial Magistrate Ist Class, Barnala is hereby set aside.

24.11.2021

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(GURVINDER SINGH GILL)
JUDGE