

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

201

**CRM-M No.32946 of 2020
Date of Decision: 14.01.2021**

MALIK KAPOOR

.....Petitioner

Vs

STATE OF PUNJAB

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr.Akaant Kumar Mittal, Advocate
for the petitioner.

Mr.Amar Ashok Pathak, Addl.A.G.Punjab.

Mr.L.S.Maan, Advocate
for the complainant.

RAJ MOHAN SINGH, J.(Oral)

The case has been taken up for hearing through video conferencing.

Petitioner has assailed the order dated 14.02.2020 passed by the Additional Chief Judicial Magistrate, Jalandhar, vide which the petitioner was declared as proclaimed person.

Learned counsel for the petitioner submits that vide order dated 02.12.2019, the petitioner was ordered to be served through proclamation under Section 82 Cr.P.C. for 21.01.2020.

On 21.01.2020, the Court has observed that since the period of

30 days had not elapsed, therefore, the case was further adjourned to 14.02.2020 for appearance of the petitioner. On 14.02.2020, the petitioner was declared as a proclaimed person.

Learned counsel further submits that in the event of finding that the period of 30 days had not elapsed on 21.01.2020, the Court ought to have adjourned the case beyond the period of 30 days in order to give full compliance to Section 82 (1) Cr.P.C. instead of adjourning the case to 14.02.2020. Vide order dated 21.01.2020, the Court has not given mandatory period of 30 days to the petitioner to appear before the Court and the proclamation order is, therefore, not in accordance with law. Learned counsel placed reliance on **Ashok Kumar vs. State of Haryana and another, 2013 (4) RCR (Cri.) 550.**

Learned State counsel, however, opposed the prayer on the ground that after proclamation, the petitioner did not appear before the Court and, therefore, he was rightly declared as a proclaimed person.

Perusal of the record would show that while adjourning the case vide order dated 21.01.2020, mandatory period of 30 days could have been granted to the petitioner to appear before the trial Court and, therefore, the impugned order is not in accordance with the provisions of Section 82(1) Cr.P.C.

Accordingly, this petition is allowed. The impugned order dated 14.02.2020 passed by the Additional Chief Judicial Magistrate, Jalandhar is quashed.

January 14, 2021

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Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No

(RAJ MOHAN SINGH)
JUDGE