

CRM-M-39910-2020

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

CRM-M-39910-2020

Date of decision: 23.02.2021

Harjinder Kaur

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Kulbir Singh Sekhon, Advocate,
for the petitioner.

Mr. Ramandeep Sandhu, Sr. DAG, Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

This is a petition under Section 482 Cr.P.C. for quashing of FIR No.135 dated 11.05.2016, under Sections 370, 420, 465, 467, 468, 471, 201 (added subsequently) and 120-B IPC, registered at Police Station Navi Baradari, District Jalandhar, and all the consequential proceedings arising therefrom, including the order dated 04.09.2017 (Annexure P-9), declaring the petitioner as a proclaimed offender.

Learned counsel for the petitioner contends that in the proclamation notice dated 24.07.2017 issued by the Judicial Magistrate Ist Class, Jalandhar, two addresses of the petitioner had been mentioned, whereas in the report dated 26.07.2017 submitted by the executing police official (HC Darshan Kumar), who executed the proclamation notice, it is mentioned that the proclamation notice had been affixed at the given address. No specific address as to where the proclamation notice had been

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affixed, has been mentioned in the report dated 26.07.2017 (Annexure P-7). Therefore, declaring the petitioner as proclaimed offender is against the spirit of Section 82 Cr.P.C. and the same is liable to be quashed. In support of his contentions, the learned counsel relies upon the decision rendered by a Coordinate Bench of this Court in 'Mehar Singh vs. State of Punjab 2010 (2) RCR (Criminal) 167.

On the other hand, learned State counsel submits that in his statement dated 07.08.2017 (Annexure P-8), the Executing Constable specifically stated that he had executed the proclamation in the area of residence of the accused and had also affixed a notice at his residence.

I have heard the learned counsel for the parties.

It is the specific case of the petitioner that she is a resident of the two addresses mentioned in the proclamation notice. However, the proclamation notice had not been executed at the given addresses. The petitioner had been declared as proclaimed offender without following the mandatory provisions contained in Section 82 Cr.P.C.

Moreover, the objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remains present before the Court to receive the orders and punishments as are passed qua the accused. If the accused shows his sincere intention and desire to appear before the Court, then it would not be unjustified to protect him from being arrested.

In view of the above, the impugned order dated 04.09.2017 (Annexure P-9) is set aside. The petitioner is directed to surrender before the trial Court within 15 days from today. On her doing so, she shall be

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released on bail subject to her furnishing fresh bail bonds/surety bonds to the satisfaction of the trial Court.

Disposed of in the aforementioned terms.

23.02.2021

parveen kumar

(HARNARESH SINGH GILL)

JUDGE

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No