

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

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**CRM-M-35867-2019 (O&M)
Decided on : 13.12.2021**

Swaran Singh

. . . Petitioner(s)

Versus

State of Punjab

. . . Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. S.P.S. Aulakh, Advocate
for the petitioner(s).

Mr. Luvinder Sofat, AAG, Punjab.

Mr. Abhishek Khullar, Advocate for
Mr. J.S. Jaidka, Advocate
for the complainant(s).

MANJARI NEHRU KAUL, J. (Oral)

This petition under Section 482 Cr.P.C. has been filed for setting aside the impugned order dated 14.06.2019 (Annexure P-2), passed by the Judicial Magistrate 1st Class, Ludhiana (in short 'JMIC'), vide which the petitioner was declared proclaimed offender in case FIR No. 191, dated 26.10.2018, under Sections 376, 384, 365, 506, 120-B of IPC, registered at Police Station PAU, Ludhiana (annexed as Annexure P-1).

Learned counsel for the petitioner contends that the order declaring the petitioner a proclaimed offender, is contrary to the provisions of Section 82 of Cr.P.C., as the period of proclamation was less than 30 days in the case in hand. Learned counsel while drawing the attention of this Court to order dated 12th April, 2019 (Anexure P-3), has submitted that on the said date, the proclamation against the petitioner

was issued for 25th April, 2019 and thereafter, vide Annexure P-4 (order dated 25th April, 2019), since the proclamation issued against the petitioner had not been received back, the petitioner was again summoned through another proclamation for 09th May, 2019.

Learned counsel has further drawn the attention of this Court to Annexure P-5 (dated 09th May, 2019), statement of the serving constable, to the effect that since the accused were not present at their house, one copy of the proclamation was pasted at their residence and two copies were pasted at a public place and in the Court premises respectively. Learned counsel has submitted that thereafter the case was adjourned to 06th June, 2019 and on the 14th June, 2019, the petitioner was wrongly declared a proclaimed offender vide impugned order dated 14.06.2019 (Annexure P-2).

Learned counsel has further submitted that even otherwise, the petitioner was not absconding and had not been intentionally evading the process of law. Rather, he was ready and willing to join proceedings before the trial Court, however, since he was unaware about the proclamation having been issued, he was unable to join the process of law.

On August 29, 2019, the State had been put on notice. Learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, has submitted that the petitioner was fully aware that the FIR in question had been registered against him for offences under Sections 376, 384, 365, 506, 120-B of IPC.

Learned State counsel while reiterating the submissions made in the reply so filed by way of affidavit of Talwinder Singh Gill,

PPS, Asstt. Commissioner of Police (West), Ludhiana, on behalf of the respondent-State, submitted that a written proclamation was effected against the petitioner and two other accused on 04th May, 2019 and thereafter, the matter was adjourned to 06th June, 2019 i.e. beyond 30 days, for awaiting the presence of all the accused including the petitioner. However, since the remand papers in the Court concerned were untraceable as they had been tagged with the main case file, no order was passed on 06th June, 2019 by the learned Magistrate and the proclamation proceedings were then adjourned to 14.06.2019 for awaiting appearance and presence of all the accused including the petitioner.

Learned State counsel has further submitted that however, on the said date i.e. 14th June, 2019, the petitioner failed to put in an appearance and thus, he was rightly declared a proclaimed offender. Learned State counsel has submitted that the contention of the learned counsel for the petitioner that the petitioner had been declared a proclaimed offender without following the provisions of Section 82 of Cr.P.C., was devoid of any merit.

I have heard learned counsel for the parties and perused the material on record.

This Court does not find any merit in the submissions made by learned counsel for the petitioner that he had been declared proclaimed offender in contravention of the provisions of Section 82 of Cr.P.C. As already submitted by the learned State counsel and observed hereinabove, the petitioner was declared a proclaimed offender much beyond 30 days, from the date of publication of the proclamation.

Still further, it would not be out of place to mention here that the affixation of the proclamation had been made at the residence of the petitioner on 04th May, 2019. Despite the affixation having been made, the petitioner still chose to evade the process of law and not appear before the Court. It is not the case of the petitioner that he was not residing at the given address and the affixation had been made at a wrong address. Once the service of proclamation was duly effected through affixation, the least that was expected of the petitioner was to join the process of law, which admittedly he failed to do.

Accordingly, the petition stands dismissed being devoid of any merit.

(MANJARI NEHRU KAUL)
JUDGE

December 13, 2021

J.Ram

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*