

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

CRM-475-2021 in/and
CRM-M-26-2021 (O&M)
Date of Decision: 08.01.2021
(Heard through VC)

Dilbag Singh

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Bhupender Singh, Advocate
for the petitioner.

JAISHREE THAKUR, J. (Oral)

CRM-475-2021

The application is partly allowed. Documents Annexure P-11 to P-13 are taken on record.

CRM-M-26-2021

1. This petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of criminal complaint No. 139 of 2015 under Sections 406, 420, 467, 468, 471, 506, 120-B IPC dated 10.06.2014 as well as quashing of impugned order dated 09.03.2018 passed by the Judicial Magistrate, Karnal, whereby the petitioner was declared as a proclaimed person.

2. During course of arguments, learned counsel for the petitioner limits his prayer for setting aside the order declaring the petitioner proclaimed person and gave up the claim for quashing of complaint.

3. Learned counsel for the petitioner would contend that there is non-compliance of provisions of Section 82 Cr.P.C. insofar as clear notice of 30 days as envisaged under the said Section has not been given to the petitioner herein. It is submitted that vide order dated 13.12.2017, the petitioner was summoned through proclamation and directed to appear before the Court below on 23.02.2018, however, the case was initially taken up on 22.01.2018 but later was adjourned for 08.02.2018, on which date the statement of the process server was recorded, who submitted that he had in-fact pasted the proclamation notice outside the conspicuous portion of the residential premises of the petitioner on 02.02.2018 for appearing on 23.02.2018.

4. Notice of motion.

5. Mr. P. P. Chahar, DAG, Haryana appearing through the medium of video conferencing accepts notice on behalf of the respondent-State and submits that the petitioner has been declared as a proclaimed offender as would be evident from the order dated 09.03.2018 passed by the Magistrate. It is further contended that the petitioner at the first instance ought to have surrendered before the trial Court.

6. I have heard learned counsel for the parties and have perused the pleadings and the *zimni* orders. Undisputedly, Section 82 Cr.P.C. clearly mandates that advance notice of 30 days is necessary for giving an opportunity to the accused person to put in an appearance on the date as

fixed. But in the present case, there is nothing available to prove that the petitioner had been afforded 30 days clear notice as notices were passed on 08.02.2018 for the petitioner to put in an appearance for 23.02.2018. Consequently, this Court has no option but to set aside the impugned order dated 09.03.2018. Petitioner would now appear before the trial Court within a period of ten days and seek bail in accordance with law and he will not be arrested till his bail application is decided.

7. It is made explicitly clear that in case the petitioner fails to surrender before the trial Court within the specified time, any interim protection allowed to him by this Court shall stand automatically vacated.

8. The petition is disposed of in the above terms.

08.01.2021

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**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned

Yes

Whether reportable

Yes/No