

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

CRM-M-5437-2022
Date of Decision:-**14.02.2022**

RAM NARAYAN @ VIKAS

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Sukhvir Singh Sahu, Advocate
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

KARAMJIT SINGH, J. (Oral)

Petitioner-Ram Narayan @ Vikas has filed this petition under Section 482 Cr.P.C. praying for quashing of the impugned order dated 17.11.2016 (Annexure P-4) passed by learned CJM, Fatehabad, whereby the petitioner was wrongly and illegally declared as proclaimed person in case FIR No.187 dated 20.4.2016 under Sections 406/420 IPC registered at Police Station City Fatehabad.

Notice of motion.

On the asking of the Court, Ms. Harpreet Kaur, AAG, accepts notice on behalf of State of Haryana.

I have heard the counsel for the parties and gone through the documents, which are placed on record by the petitioner.

From the perusal of order dated 30.9.2016 Annexure P-2, it appears that the petitioner was absconding and his warrants of arrest were received back unexecuted and learned CJM, Fatehabad issued his proclamation under Sections 82 Cr.P.C. for 5.11.2016. The order dated 5.11.2016 passed by CJM, Fatehabad shows that the said proclamation of petitioner was published on 8.10.2016 and since statutory period of 30 days had not elapsed, the case was adjourned to 17.11.2016. Finally on 17.11.2016, the impugned order was passed by the Court concerned, whereby the petitioner was declared as proclaimed person. The mere fact that the Court adjourned the case to cover statutory period of 30 days, will not be treated as compliance of the provisions of Section 82(1) Cr.P.C., which reads as follows:-

82. Proclamation for person absconding.

(1) *If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.*

As per Section 82(1) Cr.P.C., it is clear that time of at least 30 days from the date of publishing of proclamation is to be given by the Court before declaring the absconding accused as a proclaimed offender or proclaimed person.

In the case in hand the proclamation of the petitioner was published on 8.10.2016, as per which he was directed to appear in the Court on 5.11.2016, which period was less than 30 days. The mere fact that the Court adjourned the case from 5.11.2016 to 17.11.2016, will not be treated as compliance of provision of Section 82 (1) Cr.P.C., the reason being there was no direction given by the Court concerned in the proclamation issued under Section 82 Cr.P.C. that the petitioner should appear in the Court concerned on 17.11.2016. Thus the impugned order was not passed in conformity with the provision of Section 82(1) Cr.P.C. and is liable to be set aside.

In view of the above, the present petition is allowed. The impugned order dated 17.11.2016 (Annexure P-4) is set aside.

(KARAMJIT SINGH)
JUDGE

14.02.2022
Gaurav Sorot

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No