

**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH.**

124

CRM-M-13837-2022

Date of decision: 11.05.2022

SIMARJIT GILL

.....Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR**

Present : Mr. Kamaldeep Singh Sodhi, Advocate  
for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab

Mr. C.S.Jattana, Advocate  
for respondent No. 2

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**SURESHWAR THAKUR, J. (ORAL)**

1. Through the instant petition, the petitioner makes a prayer  
for quashing of an order made on 28.10.2021,

2. Order whereof, is extracted herein as under :-

*“ Proclamation U/s 82 of Cr.P.C. issued against the accused Simarjit Kaur was received back duly served on 11.10.2021, however, accused did not come present today. Statement of HC Jasbir Singh, No. 1624/Pta has already been recorded. Statutory period of 30 days has already elapsed. As such, accused Simarjit Kaur is hereby declared as proclaimed person. Necessary intimation be sent to the quarter concerned immediately. Now to come up on 24.11.2021 for pre-charge evidence of the complainant.”*

3. Through order (supra), she became declared a proclaimed  
person.

4. The above made order was made dependent upon a report of the serving constable, drawn on 15.09.2021, copy whereof, is produced by learned Counsel for respondent No. 2, before this Court, is taken on record.

5. The report, whereof, is extracted herein as under :-

*“Stated that in the aforesaid case the proclamation warrant was entrusted to me for effecting the same against the accused Simarjit Kaur d/o Harbans Singh, r/o VPO Rattangarh, Tehsil Shahbad Markanda, District Kurukshetra, Haryana, under Section 82 Cr.P.C. I visited the address given in the proclamation warrants on 15.09.2021 and tried to locate aforesaid accused but to no avail, then munadi with regard to aforesaid proclamation warrants was effected in the area. I pasted one copy of Proclamation Warrants outside the house/home of the accused and one copy was pasted on conspicuous part of the area and I also pasted third copy of the proclamation warrants outside the court. Original Proclamation is Ex.P1 and my report dated 15.09.2021 in this regard is Ex.P2. I have published the proclamation against the aforesaid accused in the accordance with the law and I pray that the accused may be declared as proclaimed offender.”*

6. If, on the date, when the serving constable visited the abode of the present petitioner, she was in India, thereupon, may be the proclamation notice as become served in the modes enshrined, in the above extracted report of the serving constable rather may become valid.

7. However, if, at the relevant stage, she was not in India, thereupon neither the report of the serving constable nor the impugned before this Court, can become sustained.

8. Since, a perusal of Annexure P-6, appended with the petition reveals, that the petitioner departed from India on 23.05.2017

and arrived in India on 12.02.2020, and, also as submitted by the learned counsel for the petitioner, was not in India, rather on the relevant day, of the serving constable in as much as, his on 15.09.2021, visiting the abode of the petitioner for his causing service of the proclamation notice, upon her.

9. Therefore, the service, if any, of the proclamation notice as strived to be made upon the petitioner, at her abode, in India, is no valid service, in the eyes of law.

10. Moreover, neither the report of the serving constable is valid nor the order of the learned Magistrate as made dependent thereons, can be construed to be valid.

11. Therefore, the impugned order is set aside.

12. However, the petitioner is directed to forthwith make her surrender before the learned trial Court concerned, and, upon doing so, the learned Magistrate concerned shall make appropriate orders.

13. Disposed of.

11.05.2022  
kavneet singh/ithlesh

(SURESHWAR THAKUR)  
JUDGE

*Whether speaking/reasoned* : *Yes/No*  
*Whether reportable* : *Yes/No*