

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

**CRM-M No. 17436 of 2022
Date of Decision: 29.04.2022**

Parmod Kumar

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Sarju Puri, Advocate
for the petitioner.

Mr. Bhupender Beniwal, Assistant Advocate General, Punjab

SURESHWAR THAKUR, J. (ORAL)

1. The petitioner is an accused in FIR No. 89 of 22.05.1992, registered at Police Station Sadar Jalandhar, District Jalandhar.

2. After opening of trial, upon, FIR (supra), the learned trial Judge concerned, proceeded to ensure the apposite presence, before him, initially through issuance of non-coercive processes against the present petitioner. However, the afore issuances of non-coercive processes, by the learned trial Judge concerned, against the petitioner for his, hence securing the personal appearance before him, of the petitioner, never yielded the requisite result. Consequently, the learned trial Judge concerned, proceeded to, as, revealed in Annexure P-1, issue non-bailable warrants, upon, the accused concerned, besides ordered for issuance of notices, upon, the sureties of the petitioner, for theirs explaining the reason for their failure to cause his personal appearance, before the learned trial Judge concerned. However, it is revealed from a report Annexure P-1, that even the above coercive processes, as, became recoured, by the trial Judge concerned, did not yield

trial Judge concerned, proceeded to order for the personal appearance of the petitioner, being caused through a proclamation notice becoming served upon him.

3. Since, as, revealed by Annexure P-2, the present petitioner, did not yet make his personal appearance, before the learned trial Judge concerned, even after his purportedly being served through a proclamation notice, thereupon, the learned trial Judge concerned, declared the present petitioner to be s proclaimed offender, and, thereafter proceeded to draw against the petitioner, the procedure contemplated in Section 299 of the Cr.P.C. However, it is also ordered, that as and when the accused is arrested or he surrenders, before the learned trial Judge concerned, for his facing trial in respect of FIR (supra), thereupon, the trial against him in respect of FIR (supra) would open.

4. The present petitioner is aggrieved from both Annexures P-1 & P-2, and, makes a prayer, that both be quashed and set aside.

5. The conclusion or inference, as, drawn in Annexure P-2, would become valid, only when the report of the serving constable, as, became depended, upon, by the learned trial Judge concerned, to make Annexure P-2, completely revealing, that he had proceeded to cause valid service of the proclamation notice, upon, the present petitioner, and, that too at the address, where he was holding his residence, hence at the relevant time. In that regard, a perusal of the report of the serving constable, as, appended with the petition, reveals that after his recording the statement of one Arun Kumar Gosla, President, Taxi Union, Katera Chowk, Phagwara, District Kapurthala, his therein making communications, that no person carrying the identity of the present petitioner or the name of the present

petitioner, rather holding his residence in the locality concerned. Therefore, whereupon, it is to be concluded that the serving constable obviously failed to, in the legally ordained manner, cause any valid service of the proclamation notice, upon, the present petitioner. In sequel, the effect of the completest want of any valid service being caused upon the present petitioner, and, when the reason for the completest failure of causing of any valid service, upon, the petitioner, becomes groved in the factum, that no person with the name, and, the identity of the present petitioner, rather residing in the area / locality, as, became visited, at the relevant stage, by the serving constable, is obviously that, there was no valid service in the eyes of law of the proclamation notice, upon, the petitioner. If so, the dependence, as, made thereons, by the learned trial Judge, makes the impugned order to become ridden with all imprest legal fallacy .

6. Consequently, the present petition is allowed. The impugned orders, as, appended with the petition, Annexures P-1 & P-2, are quashed and set aside.

7. The petitioner is directed to, within three weeks hereafter, cause his personal appearance before the learned trial Judge concerned, and, upon, his making his surrender or his causing his personal appearance, before the learned trial Judge concerned, the latter shall, in accordance with law, proceed to, on his application for bail, make lawful orders thereon.

April 29, 2022

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**(SURESHWAR THAKUR)
JUDGE**

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>