

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

202

CRM-M-17857-2021 (O&M)

Date of Decision: 10.03.2022

Maninder Pal Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Anurag Arora, Advocate, for the petitioner.

Mr. Anmol Singh Sandhu, AAG, Punjab.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks setting aside of order dated 29.01.2021 (Annexure P-2) passed by Judicial Magistrate Ist Class, (NRI), Jalandhar, whereby he has been declared a 'proclaimed offender' in respect of FIR No.0039 dated 13.03.2019 registered at Police Station Division-6, District Police Commissionerate Jalandhar under Sections 406 & 420 IPC.
2. At the time of notice of motion on 09.08.2021, this Court passed the following order:

“The petitioner assails order dated 29.1.2021 (Annexure P-2) vide which he has been declared a proclaimed offender in respect of FIR No.0039 registered at Police Station Division-6, District Police Commissionerate Jalandhar under Sections 406 and 420 of Indian Penal Code.

Learned counsel for the petitioner submits that in the instant case the Trial Court has not followed the proper procedure and the provisions of Section 82 Cr.P.C. have not been complied with in letter

and spirit. Learned counsel submits that while it was vide order dated 5.11.2020 that proclamation was ordered to be issued for 10.12.2020 but infact it was only on 23.11.2020 that the serving official effected the proclamation as would be evident from the statement of the serving official dated 10.12.2020 (Anneuxre P-6). It has been submitted that Section 82 mandates that a clear period of 30 days should be afforded to the accused for causing appearance on the nominated date as per proclamation notice, from the date the proclamation is actually effected, whereas in the instant case the proclamation was effected on 23.11.2020 and the date fixed for causing appearance was 10.12.2020. It has been submitted that subsequent adjournment of the matter would not cure the said defect. Learned counsel, in order to hammer forth his aforesaid submission, places reliance upon Ashok Kumar Vs. State of Haryana 2013(4) R.C.R. (Criminal) 550.

Notice of motion for 25.8.2021.

Meanwhile, operation of impugned order dated 29.1.2021 shall remain stayed.”

3. Learned counsel for the petitioner has submitted that in the present case the statutory provisions of Section 82 Cr.P.C. have not been complied with inasmuch as the period of 30 days after effecting proclamation upto the date nominated for causing appearance has not been afforded to the petitioner.
4. The State has filed its reply, wherein nothing has been stated qua the aforesaid position though even at the time of issuance of notice of motion the said contentions had been duly recorded by this Court.
5. Bearing the aforesaid factual position in mind as regards the petitioner not having been afforded a clear period of 30 days from date of affecting proclamation upto the date fixed for causing his appearance as per proclamation notice, the petition deserves to be accepted keeping in view of the law laid down in Ashok Kumar Vs. State of Haryana 2013(4)

R.C.R. (Criminal) 550. The petition, as such, is accepted and the impugned order dated 29.01.2021 (Annexure P-2) passed by learned Judicial Magistrate Ist Class, (NRI), Jalandhar is hereby set aside.

09.03.2022

Vimal

(GURVINDER SINGH GILL)
JUDGE

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