

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

**CRM-M-45033 of 2016
Date of Decision:- 23.05.2022**

Dilbagh Ram

....Petitioner

Vs.

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. H.S. Randhawa, Advocate
for Mr. PS Ahluwalia, Advocate
for the petitioner.

Ms. Jaspreet Kaur, AAG, Punjab.

KARAMJIT SINGH, J.(Oral)

The present petition has been filed by the petitioner praying for quashing of FIR No.91 dated 27.05.2009 (Annexure P/1) registered at Police Station Phillaur, Jalandhar for offence under Sections 341, 186, 353, 427, 148, 149 IPC, along with all the subsequent proceedings emanating therefrom including impugned order dated 20.01.2014 (Annexure P/4) passed by SDJM, Phillaur whereby petitioner has been declared a proclaimed offender.

Today the counsel for the petitioner while restricting his arguments, laid challenge only to order dated 20.01.2014, Annexure P-4, passed by the trial Court, whereby, the petitioner was declared as

proclaimed offender in case FIR No.91 dated 27.05.2009 (Annexure P/1) registered at Police Station Phillaur, Jalandhar for offence under Sections 341, 186, 353, 427, 148, 149 IPC, on the ground that the aforesaid order was not passed by the Court concerned in conformity with the provisions of Section 82 Cr.P.C. as clear 30 day notice was not given to the petitioner for his appearance before the court concerned w.e.f. date of publication of proclamation. Learned counsel further contended that at the time of passing of aforesaid order, the petitioner was not available in India. The counsel further contends that the similarly situated co-accused Balkar Ram has already been granted similar relief vide order dated 2.3.2022 in CRM-M-48987-2017.

The counsel for the petitioner further submitted that the present petition qua other relief be disposed of as not pressed.

The fact regarding grant of similar relief to co-accused Balkar Ram has not been refuted by the State counsel.

From the perusal of order dated 7.12.2013 (Annexure P-2), it transpires that the proclamation of the petitioner and other accused persons including Balkar Ram was issued by court of SDJM Phillaur for 23.12.2013. As per order dated 23.12.2013, Annexure P-3, the proclamations were effected on 17.12.2013 and 20.12.2013, however, as the period of 30 days had not lapsed, the case was adjourned to 20.01.2014 for awaiting presence of the petitioner and other absconding accused persons. Finally, the petitioner and other accused persons including Balkar Ram were declared proclaimed person vide order dated 20.01.2014 (P-4).

From the perusal of aforesaid order, Annexures P-2 to P-4, it is clear that statutory period of 30 days for appearance of the petitioner before the court concerned from the date of publication of proclamation was not given in compliance of the provisions of Section 82 Cr.P.C. So the impugned order Annexure P-4 being not passed in conformity with the procedure prescribed under Section 82 Cr.P.C is liable to be set aside. In this regard, reference may be made to decision of this Court in *Ashok Kumar Vs. State of Haryana and another, 2013 (4) RCR (Criminal) 550*.

In the light of above, the present petition is allowed and the impugned order dated 20.01.2014, Annexure P-4, passed by SDJM, Phillaur, whereby the petitioner has been declared as proclaimed offender, qua the petitioner, is hereby quashed.

Disposed of accordingly.

23.05.2022

P. Chawla

**(KARAMJIT SINGH)
JUDGE**

Whether reasoned / speaking?

Yes / No

Whether reportable?

Yes / No