

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

THROUGH VIDEO CONFERENCING

CRM-M-48987-2017

Date of Decision: 2.3.2022

Balkar Ram

....Petitioner

VERSUS

State of Punjab and another

....Respondents

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Suram Singh Rana, Advocate,
for the petitioner.

Mr. A.K.Kaundal, DAG, Punjab.

KARAMJIT SINGH, J.

Counsel for the petitioner, at the outset, submitted that he is not pressing for relief with regard to quashing of FIR No.91 dated 27.5.2009 registered under Sections 341, 186, 353, 427, 148, 149 IPC at Police Station Phillaur, District Jalandhar.

Counsel for the petitioner further submitted that however, he is challenging impugned order dated 20.1.2014 (Annexure P-4) passed by the trial Court whereby the petitioner was declared proclaimed offender, the same being illegal. He has further contended that co-accused have already been acquitted by the trial Court vide judgment dated 4.7.2016 (Annexure P-5) and that even otherwise, impugned order (Annexure P-4) was not passed by the learned trial Court in conformity with the provisions of Section 82 Cr.P.C.

that there is no illegality or infirmity in the impugned order (Annexure P-4).

From the perusal of order dated 7.12.2013 (Annexure P-2), it transpires that the proclamation of the petitioner and other accused persons was issued by the 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 period of 30 days had not elapsed, the case was adjourned to 20.1.2014 for presence of the petitioner and other absconding persons. Finally, the petitioner and other accused persons were declared proclaimed persons vide order dated 20.1.2014 (Annexure P-4).

From the perusal of aforesaid orders 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 by the Court concerned in compliance of the provisions of Section 82 Cr.P.C. In this regard, reference may be made to the decision of this Court passed in **Ashok Kumar v. State of Haryana and another** 2013 (4) RCR (Criminal) 550. So, the impugned order Annexure P-4 which was passed without following proper procedure prescribed under Section 82 Cr.P.C. is liable to be set aside.

In light of above, impugned order dated 20.1.2014 (Annexure P-4) is hereby set aside and to that extent, the present petition is allowed. The petitioner is directed to appear before the trial Court within one month and should seek regular bail.

March 2, 2022

Paritosh Kumar

**(KARAMJIT SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No