

257

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

CRM-M-29276-2020

Date of decision:10.05.2022

SAJJAN @ SJJAN KUMAR

...Petitioner

Versus

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Shadab Ahmed, Advocate for
Mr. A.K. Kansal, Advocate
for the petitioner.

Mr. Pradeep Prakash Chahar, DAG, Haryana.

SURESHWAR THAKUR, J. (ORAL)

1. The petitioner, by filing the present petition under Section 482 of the Cr.P.C., is seeking the quashing of order dated 17.01.2020 (Annexure P-4), wherethrough, he was declared a proclaimed person, by the learned Sub Divisional Judicial Magistrate, Narwana.

2. The present petitioner is aggrieved from an order comprised in Annexure P-4 wherethrough the learned Sub Divisional Judicial Magistrate concerned, declared the petitioner as a proclaimed person, as despite his being purportedly served with the proclamation notice, his not within 30 days elapsing therefrom making his personal appearance before him.

6. The order impugned drawn on 17.01.2020, before this Court would become validated only, upon the report of the serving constable, which becomes reproduced at page 4 of the petition, and, becomes extracted hereinafter, satisfying all the ingredients, and, components of the mandate carried in clause

(i)(a) of sub-section 2 of Section 82 of the Cr.P.C.

“Sir

*The proclamation regarding Sajjan Kumar son of Tek Chand, caste Luhar resident of Apollo Job Narwana was received from the Court on 20-9-19, whereafter *(Sic.) Went to the place along with the proclamation. The accused has not come to the shop for the last many days. Hence, the copy of proclamation was pasted on the shop, where a common man could read it. Munadi was done by aforesaid persons. A copy of proclamation was pasted on the notice board of the Court. The third copy of proclamation is being presented to the Hon'ble Court along with the report.*

*Signed Kuldeep 205
SSS
dated 20-9-19”*

7. However, a reading of the afore extracted report of the serving constable reveals, that though he proceeded to paste the notice, at the premises concerned, but therein there is no further echoing, that apart therefrom, he also proceeded to read the notice at the conspicuous place, wherein, the accused-petitioner herein was residing. Since the serving constable was rather to not make the afore omission as thereupon, he would not be making the completest compliance qua the mandate carried in clause (i)(a) of sub-section 2 of Section 82 of the Cr.P.C., whereas, rather his making the afore omission obviously causes breach to the apposite components, and, ingredients of the mandate carried in clause (i)(a) of sub-section 2 of Section 82 of the Cr.P.C., all of which, as afore stated require theirs being meted the completest/strictest compliance. In consequence the deficit report of the serving constable was not amenable to become accepted by the learned Magistrate concerned.

8. The further effect thereof, is that the petitioner was neither willfully nor intentionally avoiding the causings of personal service(s), upon him, of the above proclamation notice(s), nor it became validly served upon him.

9. Therefore, for the afore reasons, he could not be declared a proclaimed person. There is merit in the petition, and, is allowed, and, the impugned order of 17.01.2020, as carried in (Annexure P-4), is quashed, and, set aside.

10. However, the petitioner is directed to cause his personal appearance before the learned Magistrate concerned, and, thereupon, the learned Magistrate concerned, shall proceed to, make lawful orders qua the petitioner herein.

10.05.2022

ithlesh

(SURESHWAR THAKUR)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:

Yes/No