

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

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**CRM-M-32540-2022 (O&M)
Date of decision: 27.07.2022**

JASPINDER KAUR

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present : Mr. Anoop Verma, Advocate
for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab.

SURESHWAR THAKUR, J. (ORAL)

CRM-26291-2022

Allowed as prayed for.

CRM-M-32540-2022

1. Through the instant petition, the petitioner makes a prayer for quashing of an order made on 08.08.2013, order whereof, is extracted herein as under :-

“ Papers put up today regarding proclamation proceedings against accused Jaswinder Kaur. Accused Jaswinder Kaur has not turned up despite elapse of requisite period after her proclamation. As such she is declared proclaimed person. Necessary intimation be given to SHO. P.S. City Mansa and papers be put up on 16.10.2013 the date already fixed.

*(Balwinder Kumar)
CJM/08.08.2013”*

2. Through order (supra), she became declared a proclaimed person.

3. The above made order was made dependent upon a report of the serving constable, drawn on 28.05.2013, copy whereof, is appended with the petition as Annexure P-5.

4. The report, whereof, is extracted herein as under :-

*“xxx It is submitted that one copy of proclamation of accused Jaspinder Kaur d/o Kuldeep Singh r/o Islam Ganj, Ludhiana has been affixed on the gate of house of accused, one copy on Islam Janj Ghar and one copy on the gate of Court
Report is presented.”*

5. If, on the date, when the serving constable visited the abode of the present petitioner, she was in India, thereupon, may be the proclamation notice as become served in the modes enshrined, in the above extracted report of the serving constable rather may become valid.

6. However, if, at the relevant stage, she was not in India, thereupon neither the report of the serving constable nor the impugned before this Court, can become sustained.

7. Since, a perusal of Annexure P-3, appended with the petition reveals, that the petitioner departed from India on 14.03.2011, and, when also as submitted by the learned counsel for the petitioner, she was not in India, rather on the relevant day, of the serving constable in as much as, his on 28.05.2013, visiting the abode of the petitioner, for his causing service of the proclamation notice, upon her.

8. Therefore, the service, if any, of the proclamation notice as strived to be made upon the petitioner, at her abode, in India, is no valid service, in the eyes of law.

9. Moreover, neither the report of the serving constable is

valid nor the order of the learned Magistrate as made dependent thereons, can be construed to be valid.

10. Therefore, there is merit in the petition, and, is allowed, and, the impugned order is quashed, and, set aside.

11. The petitioner if in India, she shall forthwith surrender before the learned Magistrate concerned, whereupon the latter shall make orders in accordance with law. If yet the petitioner is residing in a foreign country, then the learned Magistrate concerned, shall take appropriate steps to validly serve her.

12. The learned Magistrate concerned, is cautioned against recommitting the above error.

27.07.2022
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(SURESHWAR THAKUR)
JUDGE

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