

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

205

CRM-M-37132-2021

Date of Decision: 09.03.2022

Anita Sharma

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Anshul Sharma, Advocate, for
Mr. G.S.Madaan, Advocate, for the petitioner.

Mr. M.S.Dullat, Addl. AG, Punjab.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court assailing order dated 10.09.2020 (Annexure P-7) passed by the learned Judicial Magistrate Ist Class, Moga, whereby she has been declared a 'proclaimed offender'.
2. At the time of notice of motion on 09.09.2021, this Court while noticing the factual position passed the following order:

“The petitioner assails order dated 10.9.2020 passed by learned Judicial Magistrate 1st Class, Moga (Annexure P-7) vide which the petitioner has been declared a proclaimed offender.

Learned counsel for the petitioner submits that while proclamation was ordered to be issued on 4.8.2020 (Annexure P-3), the accused was directed to put in appearance on 13.8.2020, which is infact less than period of 30 days as mandated under provisions of Section 82 Cr.P.C. It has been submitted that although the proclamation had been effected before the nominated date i.e. 13.8.2020 but the matter was adjourned by the Trial Court thereafter and it was ultimately on 10.9.2020 that the petitioner came to be declared as a proclaimed offender.

Learned counsel for the petitioner submits that subsequent adjournment of the matter after the date nominated for causing appearance would not cure the defect of not having provided a period of 30 days from the date the publication is effected till the date nominated for appearance and that, as such, the proceedings as conducted by the Trial Court cannot be said to be in accordance with law. The 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* and also on a judgment passed by this Court rendered in *CRM-M-14209 of 2021 decided on 26.3.2021* titled *Anita Sharma Versus State of Punjab* (Annexure P-8).

Notice of motion for 28.10.2021.

Meanwhile, operation of the impugned order dated 10.9.2020 (Annexure P-7) shall remain stayed.”

3. Learned State counsel has today filed reply, wherein the position as regards the relevant dates of issuance of proclamation and the date nominated for causing appearance has not been disputed. In other words, the time afforded for causing appearance has been confirmed to be less than 30 days.
4. Bearing the aforesaid factual position in mind and also in view of the law laid down in Ashok Kumar Vs. State of Haryana 2013(4) R.C.R. (Criminal) 550, the instant petition is accepted and the impugned order dated 10.09.2020 (Annexure P-7) passed by learned Judicial Magistrate Ist Class, Moga is hereby set aside.

09.03.2022

Vimal

(GURVINDER SINGH GILL)
JUDGE

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