

CRM-M No. 35922 of 2020
Reserved on: 08.08.2022
Pronounced on : 20.09.2022

Ramdhari.....Petitioner

Vs.

State of Haryana.....Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ankur Lal, Advocate for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

ANOOP CHITKARA J.

FIR No.	Dated	Police Station	Sections
148	2014	City Kaithal	407 & 201 IPC

Challenging the order declaring as a proclaimed offender and further directions to register FIR under section 174-A IPC, the surety has come up before this Court under Section 482 CrPC for quashing the said order and all consequential proceedings.

2. Vide order dated 3-7-2019, passed by CJM Kaithal, the petitioner was declared a proclaimed offender because, despite affixation of the proclamation at the conspicuous place of his residence, he failed to appear on 28-3-2019; the Police Official had visited the address of the surety, but he was not found present, and thus, a copy of the proclamation was affixed on the house, and one copy was affixed at the conspicuous place.
3. The petitioner’s stand in paragraph 9 is that the petitioner does not reside at the said address and has placed reliance upon the unexecutedailable warrants dated 22-11-2018, 25-11-2018, and 17-03-2018, and its report Annexure P-6, as per which the warrant officer had stated that the petitioner did not reside at such address
4. This petition was filed in Nov 2020, and till date, the State has failed to rebut the petitioner’s claim. Thus, there is no reason why the stand of the petitioner, supported by his affidavit, is not believed, moreover when it is corroborated by the documents Annexure P-6. Given above, the proclamation was not affixed in terms of section 82 (2) (i) (a) & (b) of CrPC, which mandate that the proclamation shall be publicly read in some conspicuous place of the

town or village in which such person ordinarily resides; and it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village. None of these conditions were complied with, and the non-adherence to the procedure has rendered the proclamation illegal. Given the above, the impugned order dated 3-7-2019, passed by CJM Kaithal, deserves to be quashed and set aside.

5. In Himachal Pradesh Cricket Association v State of Himachal Pradesh, 2018 (4) Crimes 324, Hon’ble Supreme Court holds “[47]. As far as Writ Petition (Criminal) No. 135 of 2017 is concerned, the appellants came to this Court challenging the order of cognizance only because of the reason that matter was already pending as the appellants had filed the Special Leave Petitions against the order of the High Court rejecting their petition for quashing of the FIR/Chargesheet. Having regard to these peculiar facts, writ petition has also been entertained. In any case, once we hold that FIR needs to be quashed, order of cognizance would automatically stands vitiated.”

6. Considering the entire facts, compromise, and in the light of the above-mentioned judicial precedents, I believe that continuing these proceedings will not suffice any fruitful purpose whatsoever. In the facts and circumstances peculiar to this case, the Court invokes the inherent jurisdiction under section 482 CrPC and quashes the order dated 3-7-2019, passed by CJM Kaithal and all subsequent proceedings qua the petitioner.

Petition allowed in the terms mentioned above. All pending application(s), if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

20.09.2022
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Whether speaking/reasoned: Yes
Whether reportable: No.