

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-37542-2019
Decided on : 04.05.2022

Aarti Tandon and another

. . . Petitioners

Versus

State of Punjab

. . . Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Abhinav Aggarwal, Advocate
for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

VIKAS BAHL, J. (Oral)

The present petition has been filed under Section 482 Cr.P.C. for quashing of the order dated 16.03.2019 (Annexure P-2) passed by the Judicial Magistrate 1st Class, Ludhiana whereby the present petitioners have been declared as proclaimed person in FIR No. 128 dated 21.04.2018 under Sections 406, 420, 120-B of the Indian Penal Code, 1860 and Sections 10 and 24 of the Immigraion Act registered at Police Station Daba, District Police Commissionerate Ludhiana.

On 14.10.2019, a coordinate Bench of this Court was pleased to pass the following order:

“The petitioners have challenged the order dated 16.03.2019 whereby they have been declared as proclaimed persons in FIR No.0128 dated 21.04.2018, under Sections 406, 420, 120-B IPC and Sections 10, 24 of the Immigration Act, registered at Police Station Daba, District Ludhiana.

Learned counsel for the petitioners contends that the impugned order declaring the petitioners as proclaimed persons is erroneous inasmuch as the period of thirty days had not expired before passing of the impugned order in terms of Section 82(1) Cr.P.C. The proclamation notices were issued on 15.02.2019 while the impugned order was passed on 16.03.2019 which was after only 29 days considering that there were 28 days in February. He also contends that the notices were not served at the address where the petitioners were residing.

Learned State counsel prays for more time to seek instructions.

Adjourned to 14.11.2019.

The operation of the impugned order dated 16.03.2019 shall remain stayed till the next date of hearing. ”

Learned counsel for the petitioners has reiterated the arguments which have been noticed in the abovesaid order and has submitted that the order declaring the petitioners as proclaimed persons is erroneous inasmuch as, the period of 30 days had not elapsed before passing of the impugned order in terms of Section 82(1) Cr.P.C. as the proclamation notices were issued on 15.02.2019 and the impugned order was passed on dated 16.03.2019 which was after 29 days inasmuch as, there are 28 days in February. It is again reiterated that the notices were not sent at the address where the petitioners were residing. He has further submitted that the petitioners are ready to appear before the trial Court within a period of 15 days and to join the proceedings.

Learned State counsel, on the other hand, has opposed the present petition and has submitted that the petitioners have been declared as proclaimed persons in accordance with law.

This Court has heard learned counsel for the parties and has perused the paperbook.

The proclamation notices in the present case were issued on 15.02.2019 and as per settled law, 30 days are required to have expired before the passing of the proclamation order but however, said 30 days have not elapsed before passing of the impugned order in the present case. The petitioners are ready to appear before the trial Court within a period of 15 days.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and the impugned order dated 16.03.2019 is set aside, subject to the petitioners appearing before the trial Court within a period of 15 days from today and also giving an undertaking to the effect that they will appear on each and every date except the dates when their personal appearance has been specifically exempted.

It is made clear that if the petitioners do not appear before the trial Court within a period of 15 days from today then the present petition would be deemed to have been dismissed.

(VIKAS BAHL)
JUDGE

04.05.2022

Mehak

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No