

111/A.

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

CRM-M-699-2022

Date of Decision: 02.02.2022

(Heard through VC)

KIRANJEET KAUR AND ANR.

.... Petitioners

Versus

STATE OF PUNJAB AND ANR.

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Gursimran Singh Madaan, Advocate,
for the petitioners.

JAISHREE THAKUR.J (Oral)

Through the instant petition filed under Section 482 Cr.P.C., the petitioners herein would assail the order dated 26.08.2019 (Annexure P-5) passed in a complaint case titled as *Karamjit Kaur Versus Gurmail Kaur etc.*, dated 26.10.2013, registered as COMI/000206/2013, under Sections 307, 452, 326, 323, 324, 459, 295-A, 506, 148, 149 of IPC, whereby the petitioners herein have been declared as proclaimed offenders.

It is argued that the petitioners herein are residing abroad and publication was issued in the local newspaper to effect service upon them, which publication would not be in consonance with law as they have been residing in Canada since 24.07.2016. It is submitted that the matter stands compromised, which compromise has been reduced into writing on 18.10.2021 wherein it has been decided that all proceedings under the

complaint and the FIR cases would be set at rest. It is argued that by an order dated 14.06.2019, the JMIC had directed the petitioners herein to be summoned through publication in the local newspaper 'Indian Express', whereas the complainant had full knowledge that the petitioners were not residing in India. Despite knowing that the petitioners were residing abroad, they made no effort to have them served at their actual address in Canada either through publication in the newspapers there or through the Embassy concerned.

Notice of motion.

At this stage, Mr. A.S.Gill, Senior DAG, Punjab, who is present through the medium of video conferencing, accepts notice on behalf of respondent-State.

Appearance has also been caused by Mr. Lalit Sharma, Advocate, on behalf of respondent No.2-complainant. He admits to the factum of compromise and would have no objection in case the PO order is set aside.

I have heard learned counsel for the parties and have also perused the pleadings of the case.

Section 82 Cr.P.C. pertains to issuance of proclamation for securing the presence of any person against whom warrant has been issued and such person is not coming forth. The proclamation is to be published in terms of Section 82(2) Cr.P.C. i.e. it has to be publicly read in some conspicuous place of the town or village in which such person *ordinarily resides*; 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; a copy of the proclamation to be affixed to some conspicuous part of the court-house. Section 82(2)(ii) Cr.P.C. provides that the Court may direct proclamation to be published in a daily newspaper circulating in the place in which such person *ordinarily resides*. From a reading of said Section, it is clear that there is great emphasis on the word “*ordinarily resides*”, therefore, the proclamation and pasting of the notice has to be done on the house where the person sought to be summoned *ordinarily resides*. Even the publication has to be done in newspapers circulating in the place where such person *ordinarily resides*.

In the instant case, it has come on the record that the petitioners herein had left the shores of India and were not residing at the place where newspapers were published. The petitioners were residing in Canada at the relevant time and, therefore, it can be said that there was non-compliance of Section 82 Cr.P.C.

Consequently, the order dated 26.08.2019 (Annexure P-5) is set aside and the present petition is disposed of accordingly.

(JAISHREE THAKUR)
JUDGE

02.02.2022

sanjeev

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No