

material irregularity and goes to the root of the case. Both the Courts below have not looked into the matter from this angle and convicted the petitioner without dealing with the mandatory compliance of procedure prescribed under Section 82 of Cr.P.C. The petitioner has placed on record Annexures P-1 and P-2 by filing CM-5827-2020. Learned counsel for the petitioner has referred to Annexures P-1 and P-2 in support of his arguments. Learned counsel for the petitioner has relied upon the judgment passed in ***Jagmal Singh and Ors. Vs. State of Haryana and Ors.*** 2015(1) RCR (Criminal) 300.

3. Per contra, learned State counsel opposes the prayer made by learned counsel for the petitioner on the ground that both the Courts below have taken into consideration relevant material and the petitioner has been rightly convicted and maximum sentence provided under Section 174-A of IPC is 3 years and he has been dealt with leniency by awarding only 06 months of rigorous imprisonment.

4. Having heard learned counsel for the parties and after perusing the record, this Court finds force in the arguments advanced by learned counsel for the petitioner. A perusal of the interlocutory orders passed by learned trial Court before declaring the petitioner as proclaimed person would indicate that the prescribed procedure under Section 82 of Cr.P.C. has not been followed. The service report of ASI Balraj Singh does not indicate any date as to when he has affixed the warrants. The interlocutory order further indicates that non-bailable warrants issued against the petitioner remained unexecuted. Even there is no material to indicate that the period of 30 days as provided under the relevant

provisions with regard to the affixation of the proclamation and appearance of the accused has been maticulously followed. The perusal of the entire record would indicate that the learned trial Court before declaring the petitioner as proclaimed person has not assigned any reasons or recorded his satisfaction that the petitioner is absconding or evading his arrest intentionally to avoid the process of law. The case of the petitioner is covered by the ratio of law passed by this Court in ***Major Singh @ Major Vs. State of Punjab*** 2023(3) RCR (Criminal) 406.

5. In view of the above, the present revision petition is allowed. Impugned judgment of conviction and order of sentence passed by learned trial Court dated 29.11.2018 as well as the judgment dated 20.01.2020 passed by learned Additional Sessions Judge, Gurugram are hereby set aside.

(HARPREET SINGH BRAR)
JUDGE

07.11.2023
Ajay Goswami

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