

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

207+3

CRM-M-8372-2022

Date of Decision: 26.04.2023

Mohd. Ashraf and Others**...Petitioners****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present:- Mr. Sunny Kumar Singla, Advocate for the petitioners

Mr. Vipin Pal Yadav, Addl. AG, Punjab

JAGMOHAN BANSAL, J. (ORAL)

1. On 08.03.2022, the following order was passed:-

“The petitioners have assailed the orders dated 17.12.2018 (Annexure P-2) and 19.01.2019 (Annexure P-3) vide which they have been declared as proclaimed persons.

At the very outset, it has been pointed out that the names of petitioners No. 1 to 3 and 5 have been reflected as Mehdo, Ashraf Mohammad, Vicky and Soni, respectively in the order dated 17.12.2018 (Annexure P-2) and the name of petitioner No.4 has been mentioned as Happy in the order dated 19.01.2019 (Annexure P-3).

As per order dated 17.12.2018 (Annexure P-2), proclamation was effected on 14.11.2018 and on the basis of the same proclamation, Khalda Parveen and another accused were also declared proclaimed persons which is subject matter of challenge in CRM-M-26621-2020. In the said case, on 08.09.2020, following order was passed:-

“Ld. Counsel for the petitioners draws attention of the Court to the impugned order passed by the Ld. Judicial Magistrate 1st Class, Moga on 17.12.2018 vide which the petitioners were declared Proclaimed Persons after it was recorded that the proclamation against them had been affixed on 14.11.2018. However, from the copy of the relevant proclamation which is on record herewith as a part of Annexure P-4 (in CRM-M-26621-2020), it reveals that the publication effected on 14.11.2018 was for 16.11.2018, i.e., just two days later. Hence, contends further that the publication was not in accordance with law as the stipulation of minimum period of 30 days had not been maintained till the date of scheduled compliance.

Notice of motion.

Mr. Randhir Thind, Deputy Advocate General, Punjab to accept notice on behalf of the respondent State.

Let a copy of the Paperbook be supplied to him.

Adjourned to 09.10.2020

In the meantime, operation of the impugned order shall remain stayed at this stage and it is directed that no coercive steps shall be taken against the petitioners”

It has been further stated that even the proclamation as mentioned in order dated 19.01.2019 (Annexure P-3) was effected on 12.12.2018, but the date of appearance was given as 17.12.2018 (Annexure P-4).

Notice of motion for 31.03.2022.

To be heard alongwith CRM-M-26621-2020.

In the meanwhile, the operation of the impugned orders shall remain stayed.”

2. Learned counsel for the petitioners submits that petitioners are ready to join investigation as well as face the trial. They could not join investigation on account of pendency of different petitions before this

Court as well as absence of direction to join investigation. Learned counsel for the petitioners further submits that petitioners agree to pay costs.

3. Learned State counsel submits that petitioners may be subjected to costs of Rs.25,000/-, however, he does not dispute the factual position and seeks direction to petitioners to join investigation.

4. In view of order dated 08.03.2022 passed by this Court and statements of both sides, impugned orders dated 17.12.2018 (Annexure P-2) and 19.01.2019 (Annexure P-3) passed by Judicial Magistrate, 1st Class, Moga in FIR No.60 dated 10.06.2018 under Sections 452, 354-B, 323, 148 & 149 of IPC registered at Police Station Ajitwal, District Moga, are hereby quashed subject to payment of costs of Rs.25,000/- payable to **‘Poor Patients Welfare Fund, P.G.I.M.E.R., Chandigarh’**. The costs shall be paid within 30 days from today.

(JAGMOHAN BANSAL)
JUDGE

26.04.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>