

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

CRM-M-10786 of 2023

Date of Decision: March 01, 2023

Harpreet Singh Sehgal

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Ms. Harpreet Kaur, Advocate for the petitioner.

DEEPAK GUPTA, J.(Oral)

By way of this petition filed under Section 482 Cr.P.C, prayer has been made to quash order dated 05.12.2022 passed in complaint No.5737 of 2018 titled Jaspreet Singh Vs. Harpreet Singh, pending in the Court of learned Judicial Magistrate Ist Class, Patiala whereby petitioner has been declared proclaimed person.

Attention is drawn by learned counsel towards order dated 18.11.2022 (Annexure P.5/8) as per which warrants of arrest issued against the accused (present petitioner) was received back unserved and proclamation was directed to be issued under Section 82 Cr.P.C for 30.11.2022. Annexure P.5/9 is the order dated 30.11.2022, as per which proclamation was received back duly effected on 02.11.2022. On that day, statement of the Serving Constable was also recorded, copy of which is Annexure P.7. However, as the period of 30 days had not elapsed, so matter was adjourned to 05.12.2022 for awaiting appearance of the accused. Annexure P.6 is the impugned order dated 05.12.2022 whereby the petitioner was declared proclaimed person after noticing that proclamation qua him had been executed on 02.11.2022.

It is rightly contended by learned counsel for the petitioner that no proclamation had been issued for surrender of petitioner on 05.12.2022 on which date, he was declared proclaimed person. On 18.11.2022, when the proclamation was issued, it was for 30.11.2022 and thus, there was not a clear gap of 30 days for appearance by the petitioner.

In view of the above, it is clear that there is violation of Section 82 Cr.P.C. Therefore, impugned order (Annexure P.6) declaring the petitioner as proclaimed person and all the consequent proceedings arising therefrom including registration of FIR under Section 174-A IPC, if any, pursuant to this order, are hereby set aside.

Disposed of.

March 01, 2023

renu

(DEEPAK GUPTA)

JUDGE

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No