

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

112

CRM-M-14247-2023
Date of decision:19.04.2023

GURBHEJ SINGH

...Petitioner(s)

VERSUS

STATE OF PUNJAB

...Respondent(s)

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Sultan Singh Gill, Advocate
for the petitioner.

Ms. Himani Arora, AAG Punjab.

GURBIR SINGH, J. (ORAL)

This is the petition under Section 482 Cr.P.C. for quashing of order dated 21.02.2015 (Annexure P-3) passed by Ld. ASJ Amritsar, whereby the petitioner has been declared proclaimed offender in case FIR No.122 dated 16.09.2013 under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985, P.S. Lapoke, District Amritsar Rural (Annexure P-1).

Learned counsel for the petitioner submits that order of proclamation was passed in violation of provisions under section 82(2) (i) (a) of the Cr.P.C. Order of proclamation was not publicly read in some conspicuous place in the town or village where petitioner was ordinarily residing.

He further submits that from perusal of statement dated 20.01.2015 of HC Tarsem Singh, it shows that he did not publicly read out a proclamation in some conspicuous place of the town or village, whereby the accused had resided. He has relied the case of **Balwant Singh Vs. State of Punjab, 1960 PLR 189** and **Harvinder Singh Vs. State of Haryana 2021 (1) RCR (Criminal) 493**.

Notice of motion.

At the asking of the Court, Mr. Himani Arora, AAG, Punjab, appears and accepts notice on behalf of respondent No.1-State. A copy of the paper book be supplied to her during the course of the day.

Section 82 of the Cr.P.C. is reproduced as under:-

“(1) If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.

(2) The proclamation shall be published as follows:-

(i) (a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;

(b) 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;

(c) a copy thereof shall be affixed to some conspicuous part of the Court-house;

(ii) the court may also, if it thinks fit, direct a copy of the proclamation to be published in a daily newspaper circulating in the place in which such person ordinarily resides.

(3) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day, in the manner specified in clause (I) of sub-section (2), shall be conclusive evidence that the requirements of this section have been complied with, and that the proclamation was published on such day.

(4) Where a proclamation published under sub-section (1) is in respect of a person accused of an offence punishable under Sections 302, 304, 364, 367, 382, 392,

393, 394, 395, 396, 397, 398, 399, 400, 402, 436, 449, 459 or 460 of the Indian Penal Code (45 of 1860), and such person fails to appear at the specified place and time required by the proclamation, the Court may, after making such inquiry as it thinks fit, pronounce him a proclaimed offender and make a declaration to that effect.

(5) The provisions of sub-sections (2) and (3) shall apply to a declaration made by the court under sub-section (4) as they apply to the proclamation published under sub-section (1).”

The proclamation was done in violation of mandatory provisions of above-mentioned section, so order dated 21.02.2015 deserves to be set aside and is accordingly set aside.

In view of the above, the petition stands disposed of.

The petitioner is directed to surrender before the trial Court/Duty Judge within a week and move an application of bail, the same shall be decided expeditiously but not later than a month of filing application.

(GURBIR SINGH)
JUDGE

19.04.2023
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Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No