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

**CRM-M-18309-2022
Date of Decision: 21.08.2023**

Muslam @ Aalam

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Aditya Sanghi, Advocate,
for the petitioner.

Mr. Naveen Kumar Sheoran, DAG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure for quashing/setting aside the impugned order dated 13.08.2012 passed by the learned ACJM, Faridabad (Annexure P-1) and all the consequential proceedings whereby the petitioner has been declared as absconder in FIR No.617, dated 29.12.2011, under Sections 420, 467, 468 & 120-B of the IPC registered at Police Station Faridabad Central, District Faridabad.

2. Learned counsel for the petitioner has submitted that it is a case where the learned ACJM, Faridabad had erroneously declared the petitioner as absconder. He further submitted that the mandatory provision of Section 82 of the Cr.P.C. has not been complied with in the present case which would initiate the aforesaid proceeding under Section 82 of the Cr.P.C.

While referring to the statement of the serving Constable (Annexure P-3), he

submitted that the proclamation was neither read over at the time of visiting the public place nor any date and time has been specified when the same was pasted in the roads and outside the learned Court. He submitted that in view of the aforesaid position, the entire proceeding under Section 82 of the Cr.P.C. get vitiated. To substantiate his case, learned counsel for the petitioner has relied upon the judgment passed by a Co-ordinate Bench of this Court in ***CRM-M-25921-2020*** titled as “***Harvinder Singh Vs. State of Haryana and another***” dated 22.09.2020 to contend that when the proclamation is not read over then it would amount to non-compliance of the provision under Section 82 of the Cr.P.C. He also referred to another judgment of Co-ordinate Bench of this Court passed in ***CRM-M-24806-2014*** titled as “***Jagmal Singh and others Vs. State of Haryana and others***” dated 28.10.2014 to contend that when no time and place is mentioned as to when the summons or proclamation note was pasted then it would also amount to violating the procedure under Section 82 of the Cr.P.C. He further submitted that even otherwise also the co-accused, namely, Faku has already been acquitted by the learned trial Court and he was the main accused in the present case and so far as the present petitioner is concerned, he has no role to play but still he is ready and willing to surrender before the Court and to face the trial but his proclamation proceedings and order may be set aside in view of the aforesaid factual position and the aforesaid judgment passed by a Co-ordinate Bench of this Court.

3. On the other hand, Mr. Naveen Kumar Sheoran, learned DAG, Haryana has submitted that pasting was done in accordance with procedure under Section 82 of the Cr.P.C.

4. I have heard the learned counsels for the parties.
5. A perusal of the Annexure P-3 whereby the statement of serving Constable was recorded would show that there is an apparent violation of provision of Section 82 of the Cr.P.C. since neither the proclamation was stated to be read over nor any date and time has been mentioned and the report itself is totally vague *ex facie*. The reliance placed by the learned counsel for the petitioner on the aforesaid two judgments is well placed.
6. In view of the aforesaid position, the present petition is allowed and the impugned order dated 13.08.2012 passed by the learned ACJM, Faridabad vide Annexure P-1 is, hereby, set aside.

21.08.2023

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |