

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM-M-21845-2022 (O&M)

Date of decision : 22.02.2023

Ajit Singh Bagga

... Petitioner(s)

Versus

State of Punjab & another

...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Saleem Akhtar, Advocate
for the petitioner(s).

Mr. IPS Sabharwal, DAG, Punjab.

ANOOP CHITKARA, J.

Case No.	Dated	Offence/Section	Police Station
3889/17	14.8.2019	25 of Payments and Settlement Systems Act, 2007	Gurugram

Seeking the quashing of proclamation order Annexure P-3, the accused has come up before this court under Section 482 of the Code of Criminal Procedure, 1973 (CrPC).

2. Petitioner was arraigned as an accused in the above-captioned matter. On failure to serve the petitioner through the ordinary process, including summons, bailable warrants, and even non-bailable warrants, the concerned court finally proceeded against the petitioner under section 82 of CrPC and declared the petitioner a proclaimed offender vide order dated 01-07-2019.
3. The point to which the petitioner wants to draw the attention of this court is that the absence was not willful and was due to factors beyond the petitioner’s control. The State could not dispute the factual matrix at this stage.
4. The explanation offered by the petitioner is that the service was effected on the address which had been rented out and this fact was well in the knowledge of the complainant and their officers. Despite that they tried to serve him on the address

where he was not residing which led to the issuance of proclamation. The petitioner states that multiple cases were filed and he had even been arrested and remained in jail.

5. I have gone through the pleadings and there is nothing to dispute the stand of the petitioner which is well reasoned. Given above, the petitioner has made a case on the preponderance of probability that neither any sincere attempt was made to execute the warrants nor did the petitioner have any knowledge about appearance as contemplated under section 82 CrPC. Thus, the order is arbitrary and did not afford reasonable opportunity as mandated under Section 82 of CrPC

6. Consequently, the impugned order of proclamation dated 1.7.2019 passed by Id. JMIC, Gurugram, Annexure P-3, is set aside.

7. If the aforesaid complaint is still pending then the petitioner shall put in appearance before the concerned court positively by 15th May 2023 and show his *bona fide*. In case he fails to do so, this order shall stand recalled automatically under section 362 read with 482 of Cr.P.C., without any further reference to this court.

Petition allowed subject to the compliance mentioned above.

(ANOOP CHITKARA)
JUDGE

February 22, 2023
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	No