

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

(243)

CRM-M-39003-2020
DATE OF DECISION:-17.05.2023

Rantaj Singh

...Petitioner

vs.

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. R. S. Cheema, Senior Advocate, with
Mr. D. S. Sobti, Advocate, for the petitioner.

Mr. Amit Shukla, AAG, Punjab.

HARKESH MANUJA, J.

(1) By way of present petition filed under Section 482 of the Code of Criminal Procedure, 1973, prayer has been made for issuance of directions to respondents No.2 and 3 to comply with directions of the Director Bureau of Investigation, Punjab dated 01.05.2019 (Annexure P-14) and to submit a cancellation report under Section 173 Cr.P.C. pertaining to FIR No.82 dated 22.04.2012 registered under Sections 307, 452 and 34 IPC, at Police Station Division No.7, District Jalandhar, besides challenging the order dated 31.08.2012 whereby, the petitioner was declared as proclaimed offender.

(2) Briefly stating, the petitioner who was arrayed as an accused in the aforementioned FIR was declared as proclaimed offender vide order dated 31.08.2012 passed by the Court of JMIC, Jalandhar.

(3) Impugning the aforesaid order, learned senior counsel representing the petitioner submits that the proclamation under Section 82 Cr.P.C., in the present case was ordered to be made on 31.07.2012 for 09.08.2012 being the date of appearance. He thus, submits that the petitioner was never afforded 30 days period as prescribed under Section 82 (1) Cr.P.C. for the purpose of

putting in appearance in pursuance to the aforesaid proclamation and thus, the whole proceedings culminating into the order dated 31.08.2012 whereby petitioner was declared as proclaimed offender, were vitiated.

(4) On the other hand, learned State counsel opposes the prayer made herein while submitting that the petitioner who was duly put to notice vide proclamation dated 31.07.2012 was having complete knowledge of the proceeding pending against him. He further submits that the petitioner was only trying to draw the benefit of technicalities.

(5) I have heard learned counsel for the parties and gone through the paper book as well as the zimni orders appended alongwith CRM No.30151 of 2020. I find substance in the submissions made on behalf of the petitioner.

(6) A perusal of the proclamation issued on 31.07.2012 clearly shows that the same was issued for 09.08.2012 being the date of appearance which clearly fell short of statutory period of 30 days as prescribed Section 82(1) Cr.P.C., which is reproduced hereunder:-

“82. Proclamation for person absconding.

(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.”

A meaningful reading of the aforesaid provision shows that a clear cut 30 days period has to be afforded in pursuance to the proclamation issued under Section 82 Cr.P.C before passing the order of declaring someone as proclaimed offender. The aforesaid provision which forms part

of Chapter-VI of Code of Criminal Procedure, 1973, relates to appearance of an individual before the Courts and thus regulates one's liberty and accordingly cannot be dealt with casually being stemming from Article 21 of the Constitution of India and has to be thus treated mandatory being inviolable.

(7) To sum up, as no clear cut 30 days time was afforded to the petitioner for putting in appearance before the Court in pursuance to the proclamation effected on 31.07.2012, his declaration as proclaimed offender vide order dated 31.08.2012 passed by the Court of JMIC, Jalandhar is declared to be illegal being in violation of Section 82 Cr.P.C. and is, therefore, set aside.

(8) As regards the other prayer made by the petitioner regarding submission of cancellation report under Section 173 Cr.P.C., in view of the fact that in pursuance to an order dated 24.05.2022 passed by this Court in the present petition, the petitioner having appeared before the Additional Sessions Judge, Jalandhar on 04.06.2022 and furnished his bail bonds/surety bonds, besides, the investigation qua the petitioner still going on, learned senior counsel does not want to press the aforesaid prayer at this stage.

(9) Accordingly, the investigating agency shall be at liberty to file its final report under Section 173 Cr.P.C. as and when the investigation is complet and the petitioner shall be at liberty to avail his remedies as per law in case any need arises.

(10) The present petition is disposed of accordingly.

17.05.2023
anil

(HARKESH MANUJA)
JUDGE

whether speaking/reasoned: Yes/No
whether reportable: Yes/No