

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

CRM-M No.45878 of 2022 (O&M)

Date of decision: 19th January, 2023

Jagdip @ Jony

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. G.S. Madaan, Advocate for the petitioner.

Mr. Amit Rana, Sr. Deputy Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J.

Petitioner in the instant petition filed under Section 482 Cr.P.C. is seeking quashing of the order dated 20.03.2007 (Annexure P-8) vide which he was declared proclaimed offender in case FIR No.174 dated 26.07.2004 under Sections 379, 411 IPC pertaining to Police Station Division No.6, Jalandhar (Annexure P-1).

Learned counsel for the petitioner submits that the impugned order suffers from patent illegality and is contrary to the mandatory provisions of Section 82 Cr.P.C. and hence, deserves to be set aside. He submits that pursuant to the petitioner being nominated as an accused in the FIR in question, he was granted bail by the trial Court. However, later-on he was communicated by his counsel that he would have to appear in the Court only when called and required. Soon

thereafter, the petitioner as per the learned counsel, shifted to a new address at Jalandhar as is evident from his Ration Card (Annexure P-2). Later in the year 2008, the petitioner moved to Shaheed Bhagat Singh Nagar. Learned counsel submits that due to change of address, the petitioner was never served either with the summons or warrants and hence, there was no intention on his part to avoid the process of law. Learned counsel has still further submitted that a perusal of the statement of the serving official further reveals that the proclamations were never read publicly in some conspicuous place, where the petitioner was ordinarily residing. Learned counsel vehemently submitted that it was clear that the mandatory provisions of Section 82 Cr.P.C. had thus not been complied with.

Per contra, learned State counsel has opposed the prayer and submissions made by the counsel opposite and prayed for dismissal of the instant petition. He has filed reply by way of affidavit of Randhir Kumar IPS, ACP-IV, Model Town, Jalandhar, which is taken on record. He submits that the petitioner had been intentionally avoiding service of warrants etc.

I have heard learned counsel for the parties and perused the relevant material on record.

As per the Ration Card of the family of the petitioner (Annexure P-2), though his address was House No.358, Subhash Nagar, Jalandhar; however, admittedly the proclamation was not

affixed there but at House No.355, Subhash Nagar, Jalandhar. In addition, it is not disputed that the proclamation of the serving official (Annexure P-7) was not publicly read over as provided for in Section 82 Cr.P.C. Therefore, the submission made by the learned counsel is not without merits that the provisions of Section 82 Cr.P.C. were not fully complied with and still further, the proclamation was not affixed at the address of the petitioner but at a wrong address. The petitioner, as per the instructions received by the learned State counsel, is not shown to be involved in any other criminal case.

The petition is allowed and the order (Annexure P-8) dated 20.03.2007 is hereby quashed.

(MANJARI NEHRU KAUL)
JUDGE

January 19, 2023
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No