

**120+304-a IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**Neutral Citation No. 2023:PHHC:142522
CRM-M-46130-2023 (O&M)
Date of Decision: November 08, 2023**

Shiva Hans and another ...Petitioners

Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Manmeet Singh Rana, Advocate for the petitioners.

DEEPAK GUPTA, J.(Oral)

CRM-40131-2023

This is an application under Section 482 Cr.P.C. to place on record the zimni orders passed by learned Judicial Magistrate 1st Class, Jalandhar, as Annexure P-4 and to exempt from filing certified and typed copies thereof.

Allowed.

Annexure P-4 is taken on record.

Main Case

By way of this petition filed under Section 482 Cr.P.C., petitioners pray for quashing of order dated 18.08.2018 (Annexure P-2) passed by the Trial Court concerned in case FIR No.220, dated 23.08.2014, under Sections 323, 324, 452 of IPC, registered at Police Station Ramamandi, District Jalandhar City, whereby petitioners were declared proclaimed persons.

Learned counsel for the petitioners contends that petitioners were on bail. They could not appear in the Court on 12.12.2017, due to whichailable warrants were issued against them. Learned counsel has also pointed out that said warrants of arrest were issued without cancelling the bail of the petitioners. Since warrants of arrest remained unexecuted, the proclamation was directed to be issued vide order dated

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24.04.2018. The proclamation was effected for 06.07.2018, as per order dated 07.07.2018 (Annexure P-4 colly). Since a period of one month had not elapsed by that time, therefore, the Court simply adjourned the matter to 18.08.2018 for awaiting the appearance of the petitioners and then declared them as proclaimed persons by way of impugned order.

Learned counsel for the petitioners contends that when the proclamation was effected on 06.07.2018 for 07.07.2018 as reflected in the order dated 07.07.2018 (Annexure P-4 colly) and by that time 30 days period had not elapsed; and when the petitioners were declared proclaimed persons on 18.08.2018, there was no proclamation for that date and thus, there is clear violation of Section 82 Cr.P.C.

Notice of motion to respondent No.1 only.

Mr. R.S. Khaira, DAG, Punjab accepts notice on behalf of respondent No.1- State.

Learned State counsel could not refute the aforesaid factual position, which is otherwise also evident from the various orders passed by the Trial Court concerned.

In view of the aforesaid circumstances, when the impugned order has been passed in clear violation of the provisions of Section 82 Cr.P.C., present petition is hereby allowed. The order dated 18.08.2018 (Annexure P-2), whereby the petitioners were declared as proclaimed persons in case FIR No.220, dated 23.08.2014, under Sections 323, 324, 452 of IPC, registered at Police Station Ramamandi, District Jalandhar City, is hereby set aside.

November 08, 2023

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Whether reasoned/speaking: Yes/No

(DEEPAK GUPTA)

JUDGE

Whether reportable: Yes/No