

206/2

2023:PHHC:049035

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-57651-2022

Date of Decision: April 11, 2023

KULJINDER PAL SINGH

..... Petitioner

Versus

STATE OF PUNJAB

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Rohit Jindal, Advocate for petitioner.

Mr. Amit Shukla, AAG, Punjab.

HARKESH MANUJA, J. (ORAL)

By way of present petition filed under Section 482 CrPC, challenge has been made to an order dated 29.04.2022 passed by JMIC Moga, whereby the petitioner was declared as proclaimed offender in case FIR No.112 dated 28.06.2019 registered under Section 21 of Narcotics Drugs and Psychotropic Substances Act, 1985 (Sections 25, 29, 61 and 85 of NDPS Act, 1985 added later on), Police Station Dharmkot, District Moga, Punjab.

In the present case, having been implicated as an accused in the aforementioned FIR so as to procure the presence of petitioner, proclamation under Section 82 of CrPC was ordered on 23.12.2021 for causing appearance on 10.03.2022. As per the records, the proclamation was effected on 08.03.2022 for causing appearance on 10.03.2022, however, on 10.03.2022 the matter was adjourned for 29.04.2022 when on account of non-appearance, the petitioner was declared as proclaimed offender in exercise of powers under Section 82 of CrPC.

Challenging the aforesaid order, learned counsel for petitioner submits that from a perusal of the record it is apparent that the proclamation was effected on 08.03.2022 for causing appearance on

CRM-M-57651-2022**-2-**

10.03.2022 thereby, giving merely two days for appearance before the Court below and adjournment as ordered by learned trial Court on 10.03.2022, extending the period of appearance would not validate the proclamation which was in fact violative of Section 82 of CrPC, being less than 30 days and thus the same was liable to be quashed.

On the other hand, learned State counsel submits that the petitioner was having complete knowledge about pendency of proceedings and despite there being a valid proclamation having been made under the orders of the Court, the petitioner chose not to appear, just to delay the proceedings.

I have heard learned counsel for the parties and have gone through the paper-book. I find substance in the submissions made on behalf of learned counsel for petitioner.

In the present case the proclamation was ordered on 23.12.2021 for 10.03.2022, however, the same was effected on 08.03.2022 for causing appearance on 10.03.2022 thereby providing a period of barely 2 days to the petitioner to cause appearance before trial Court. Any extension of time, post 10.03.2022, by the trial Court in the absence of any fresh proclamation ordered under Section 82 CrPC would not validate the previous proclamation effected on 08.03.2022 which was about effecting appearance on 10.03.2022 which gave only two days to the petitioner so as to cause appearance.

In view of the aforesaid, the proclamation made on 08.03.2022 for causing appearance on 10.03.2022 being less than the statutory period of 30 days as prescribed under Section 82(1) of CrPC could not have been relied upon for declaring the petitioner as proclaimed offender, that

too on account of his non-appearance on the adjourned date i.e. 29.04.2022 which as per record was never the date for putting in appearance, as per the proclamation effected on 08.03.2022.

Resultantly, the present petition is allowed. The impugned order dated 29.04.2022 passed by Court of Ld. JMJC, Moga whereby the petitioner was declared as proclaimed offender is therefore set aside being violative of Section 82 of Code of Criminal Procedure, 1973.

11.04.2023
tejwinder

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No