

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

**CRM-M-61029-2023 (O&M)
Date of decision-05.12.2023**

Paramjit Kaur @ Paramjit Sood

...Petitioner

Vs.

State of Punjab and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Anantdeep Singh Sandhu, Advocate for the petitioners.

HARPREET SINGH BRAR, J. (Oral)

1. The petitioner has approached this Court under Section 482 Cr.P.C. seeking quashing of impugned order dated 12.10.2018 (Annexure P-1) passed by the learned Chief Judicial Magistrate, Moga, in a case bearing FIR No.129 dated 07.07.2017 for the offence under Sections 420 and 406 of Indian Penal Code, 1860 registered at Police Station City Moga, District Moga, whereby the petitioner has been declared a proclaimed person.

2. Learned counsel for the petitioner *inter alia* contends that on 13.06.2018, proclamation warrants of the petitioner was ordered to be issued for 27.08.2017 and on that date, the trial Court observed that the proclamation was duly effected and the notice was issued to the serving constable for 12.10.2018. On 12.10.2018, the statement of serving constable was recorded in this regard and the petitioner was declared proclaimed person. Copy of the impugned order dated 12.10.2018 is appended with the

petition as Annexure P-1.

3. Learned counsel for the petitioner submits that the petitioner is ready and willing to join herself to the jurisdiction of the learned trial Court and face the trial and undertakes to appear before the trial Court on each and every date.

4. Notice of motion.

5. Ms. Navreet Kaur Barnala, AAG, Punjab accepts notice on behalf of respondent-State.

6. Per contra, Ms. Navreet Kaur Barnala, AAG, Punjab supports the impugned order passed by the trial Court by contending that the petitioner did not put in appearance before the trial Court intentionally and deliberately and therefore, having left with no other option, proclamation was issued to secure his presence. When the petitioner did not turn up despite execution of proclamation, he was declared a proclaimed person.

7. I have heard learned counsel for the parties and perused the record of the case with their able assistance. With the consent of parties, the case is taken up for final disposal.

8. While the scheme of criminal justice system necessitates curtailment of personal liberty to some extent, it is of the utmost importance that the same is done in line with the procedure established by law to maintain a healthy balance between personal liberty of the individual-accused and interests of the society in promoting law and order. Such procedure must be compatible with Article 21 of the Constitution of India i.e. it must be fair, just and not suffer from the vice of arbitrariness or

unreasonableness.

9. A perusal of the impugned order passed by the trial Court merely indicates that proclamation through publication issued against accused received back duly effected, sans assigning reasons or recording its satisfaction that the petitioner is absconding or concealing himself intentionally to avoid the process of law. This Court in the judgment passed in ***Major Singh @ Major Vs. State of Punjab 2023 (3) RCR (Criminal) 406; 2023 (2) Law Herald 1506*** has held that the Court is first required to record its satisfaction before issuance of process under Section 82 Cr.P.C. and non-recording of the satisfaction itself makes such order suffering from incurable illegality. In the judgment passed by this Court in ***Sonu vs. State of Haryana 2021 (1) RCR (Cri.) 319***, it has been held that the conditions specified in Section 82 (2) Cr.P.C. for the publication of a proclamation against an absconder are mandatory. Any non-compliance therewith cannot be cured as an 'irregularity' and renders the proclamation as nullity.

10. The sole purpose of issuance of non-bailable warrants or issuance of proclamation is to secure presence of the accused before the trial Court. The petitioner in the present case has himself come forward and has undertaken to appear before the trial Court on each and every date.

11. In view of the aforesaid facts and circumstances, the impugned order dated 12.10.2018 (Annexure P-1) passed by the learned Chief Judicial Magistrate, Moga, in a case bearing FIR No.129 dated 07.07.2017 for the offence under Sections 420 and 406 of Indian Penal Code, 1860 registered at Police Station City Moga, District Moga vide which the petitioner was

declared proclaimed person is set aside. The petitioner – Paramjit Kaur @ Paramjit Sood is directed to appear before the trial Court within 8 weeks and on her doing so, she shall be admitted to bail on her furnishing bail bonds and surety bonds to the satisfaction of the trial Court, along with costs of Rs.20,000/- to be deposited with the District Legal Services Authority, Moga for wasting precious time of the Court.

12. The instant petition stands disposed of in above terms.

(HARPREET SINGH BRAR)
JUDGE

05.12.2023

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