

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-62782-2023

Date of Decision: December 14, 2023

GURBIR SINGH

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Harmanpreet Singh, Advocate for the petitioner.
Mr. Shubham Kaushik, A.A.G., Punjab.

HARKESH MANUJA, J. (ORAL)

By way of present petition filed under Section 482 CrPC, prayer has been made for setting aside the order dated 19.09.2023 passed by the Court of Addl. Chief Judicial Magistrate, District Tarn Taran whereby, the petitioner was declared as proclaimed offender.

2. Briefly stating, FIR No.73 dated 15.04.2022 registered under Sections 307, 148 and 149 IPC and Section 25 of Arms Act, 1959 at P.S. Sadar, District Tarn Taran was recorded wherein, the petitioner besides others was arrayed as an accused followed by his declaration as a proclaimed offender vide order dated 19.09.2023.

3. Impugning the aforesaid order, learned counsel for the petitioner submits that the petitioner was declared as proclaimed offender in violation of section 82 of CrPC as no valid proclamation was made.

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4. On the other hand, learned State counsel submits that petitioner, despite having knowledge about the pendency of criminal case against him, chose not to submit himself before the jurisdiction of the Court and thus the order dated 19.09.2023 calls for no interference.

5. I have heard learned counsel for the parties and gone through the paper-book.

6. A perusal of statement of the executant-Police Officer which was recorded before the trial Court on 28.07.2023 shows that the proclamation order-notice issued by the Court was never read publically in consonance with Section 82(2)(i)(a) of the Criminal Procedure Code, 1973. Thus, on account of non-compliance of aforesaid provision, the declaration of petitioner as proclaimed offender cannot be sustained. Section 82 of the CrPC which primarily relates to the appearance of the individual before the Court stems from Article 21 of the Constitution of India and thus, being inviolable, has to be followed mandatorily.

7. In view of the above, the order dated 19.09.2023 passed by the trial Court declaring the petitioner as proclaimed offender is hereby set aside.

14.12.2023
Tejwinder

(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>