

CRM-M No.64165 of 2023 (O&M)

2023:PHHC:164237

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

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CRM-M No.64165 of 2023 (O&M)

Date of Decision: 20.12.2023

PIYUSH

.....Petitioner

Vs

STATE OF HAYRANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Manoj Kaushik, Advocate
For the petitioner.

HARKESH MANUJA, J. (Oral)

[1]. By way of present petition under Section 482 Cr.P.C., prayer has been made for quashing of orders dated 31.08.2023 and 17.10.2023 passed by the Judicial Magistrate Ist Class, Faridabad, whereby the petitioner was declared as proclaimed person in the proceedings arising out of FIR No.273 dated 27.06.2022 registered under Section 147, 148, 149, 323, 506 IPC (Sections 302, 120-B & 201 IPC added later on) at Police Station SGM Nagar, District Faridabad (Annexure P-1).

[2]. Briefly stating, in the aforementioned FIR, on account of his non-appearance before the concerned Court, petitioner was declared as proclaimed person vide order dated 17.10.2023 passed by the Judicial Magistrate Ist Class, Faridabad.

[3]. Impugning the aforesaid order dated 17.10.2023, learned counsel for the petitioner submits that while declaring the petitioner as proclaimed person,

mandatory requirement under Section 82 Cr.P.C. was never complied with, which is clearly discernible from the statement of executants police officer. While referring to the said statement dated 08.09.2023, learned counsel submits that the proclamation was never affixed at the residence of petitioner.

[4]. Notice of motion.

[5]. On asking of the Court, Mr. Krishan K. Chahal, Addl. A.G., Haryana accepts notice on behalf of the respondent/State. Mr. Rohit Rana, Advocate appears on behalf of the complainant.

[6]. Learned State counsel while opposing the prayer made on behalf of the petitioner submits that the petitioner having complete knowledge about pendency of FIR and proceedings before the Trial Court, chose not to submit himself to the jurisdiction of the concerned Court and, therefore, order dated 17.10.2023 passed by the Court below warrants no interference.

[7]. Learned counsel representing the complainant submits that the material compliance of Section 82 Cr.P.C. was duly made as the proclamation was duly read over in public by the Chowkidar besides a copy thereof having been affixed at the common passage, post office (public place) and Court premises and, therefore, no illegality or perversity can be found in the order dated 17.10.2023 passed by the Court below.

[8]. I have heard learned counsel for the parties and gone through the paper book.

[9]. Perusal of Sub-section 2(i)(b) of Section 82 Cr.P.C. shows that the proclamation has to be affixed to some conspicuous part of the house of the individual in which he/she ordinarily resides. Perusal of the statement made by executant police officer on 08.09.2023 shows that no such compliance was ever made under the pretext that house numbers in the area were not correctly depicted. In the aforesaid situation, rather than declaring the petitioner as proclaimed person, the Trial Court was required to find out the correct house number of the petitioner and upon identifying the same, fresh proclamation should have been ordered in terms of mandatory compliance of Section 82(2)(i)(b) Cr.P.C.

[10]. Once the mandatory procedure laid down under Section 82 Cr.P.C. was never complied with before declaring the petitioner as proclaimed person, the order dated 17.10.2023 passed by the Judicial Magistrate Ist Class, Faridabad cannot be sustained and accordingly the same is set aside. Petitioner is directed to submit himself to the jurisdiction of the Trial Court and seek his remedies as regards bail/anticipatory bail in accordance with law.

[11]. Petition stands allowed accordingly.

December 20, 2023	(HARKESH MANUJA)
<i>Atik</i>	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No