

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

**CRM-M No. 1897 of 2024 (O&M)  
Date of Decision: 16.01.2024**

Jaipal Yadav

..... Petitioner

**Versus**

State of Haryana and another

..... Respondents

**CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA**

Present: Ms. Tejaswini, Advocate  
for the petitioner.

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**HARKESH MANUJA, J. (ORAL)**

The petitioner, by way of present petition filed under Section 482 Cr.P.C., seeks setting aside the order dated 22.02.2019 (**Annexure P-1**) passed by the learned Judicial Magistrate First Class, Gurugram, whereby he was declared as “proclaimed person” followed by registration of FIR against him in terms of Section 174-A of the Indian Penal Code.

[2] In the present case, having been impleaded as one of the accused in FIR No. 13 dated 07.01.2015, under Sections 148, 149, 323, 326 & 506 of IPC, registered at Police Station Badshahpur, District Gurugram (Sections 148/149/326 of IPC deleted and Section 324/34 of IPC added later on), the petitioner was initially found innocent and placed in Column No. 2 in the final report; however, in pursuance of an application having been filed under Section 319 Cr.P.C. for summoning the petitioner, he was summoned as an additional accused vide order dated 26.10.2017 (**Annexure P-4**). In pursuance of the aforesaid summoning order, the petitioner did not appear

before the trial Court followed by an order dated 05.01.2019 (**Annexure P-6**) passed by the learned JMIC, Gurugram, ordering effecting of proclamation under Section 82 of Cr.P.C. against him for 22.02.2019 being the date for appearance. The proclamation was effected on 11.01.2019 and on account of non-appearance of the petitioner, he was declared as “proclaimed person” vide order dated 22.02.2019 (**P-1**).

[3] Learned counsel for the petitioner submits that while declaring the petitioner as “proclaimed person”, the mandatory procedure as laid down under Section 82 Cr.P.C. was never followed as the proclamation issued by the Court was never read over in public place in terms of Section 82 (2) (i) (a) of the Code of Criminal Procedure.

[4] Notice of motion *qua* respondent No. 1 only.

[5] Mr. Chetan Sharma, Deputy Advocate General, Punjab, accepts notice on behalf of respondent No. 1 / State of Haryana and vehemently opposes the prayer made in the present petition, while submitting that the petitioner though contested the application filed at the instance of the prosecution while invoking Section 319 Cr.P.C., however, chose not to appear in pursuant to the order dated 26.10.2017 (**P-4**) passed thereupon.

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

[7] A careful perusal of the statement of the executant police official which was recorded before the trial Court on 11.01.2019 shows that the proclamation under Section 82 Cr.P.C. was never read over in public

place in terms of Section 82 (2) (i) (a) of Cr.P.C. and thus, there was material non-compliance of the provisions of Section 82 of Cr.P.C.

[8] Resultantly, the order dated 22.02.2019 (P-1) passed by the learned Judicial Magistrate First Class, Gurugram, declaring the petitioner as “proclaimed person” in terms of Section 82 of Cr.P.C. being in violation of the mandate of the statutory provision, is hereby quashed.

[9] The petition is **disposed off** accordingly.

[10] Pending miscellaneous application(s), if any, shall also stand disposed off.

January 16, 2024  
'dk kamra'

( HARKESH MANUJA )  
JUDGE

|                           |        |
|---------------------------|--------|
| Whether Speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |