

CRM-M-4149-2024

129 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-4149-2024
Date of Decision: 25.01.2024

Parminder KaurPetitioner
Versus
State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Shakti Mehta, Advocate for the petitioner.

HARKESH MANUJA, J.(Oral)

1. By way of present petition filed under Section 482 Cr.P.C., prayer has been made for setting aside the order dated 05.11.2022 passed by the Sub Divisional Judicial Magistrate, Kharar, whereby the petitioner was declared as proclaimed person.
2. Having been implicated in FIR No.37 dated 13.03.2015, under Section 448 IPC, at Police Station City Kharar, District SAS Nagar (Mohali), the petitioner joined the investigation on 30.11.2019, however, failed to appear before the Trial Court thereafter, resulting into declaration of he being a proclaimed person.
3. Assailing the aforesaid order dated 05.11.2022, learned counsel for the petitioner submits that while effecting proclamation under Section 82 Cr.P.C., the mandatory procedure laid down under the aforesaid provision was never complied with as the proclamation was never read over in public place.
4. Notice of motion.
5. Mr. Shubham Kaushik, AAG, Punjab accepts notice on behalf of

the respondent-State and opposes the prayer made herein while submitting that the petitioner despite having knowledge about the pendency of the criminal proceedings, chose not to submit himself before the jurisdiction of the Court concerned and thus, he cannot raise the issue of non-compliance of the one of the conditions of Section 82 Cr.P.C.

6. I have heard learned counsel for the parties and I find substance in the submissions made on behalf of the petitioner.

7. A perusal of record shows that the statement of the Executant Police Officer in the present case was recorded on 09.09.2022, wherein it was nowhere mentioned that proclamation was read over in the public place in consonance with the provisions of Section 82(2)(i)(a) Cr.P.C. and thus, in the absence of compliance of the mandatory provision, the declaration of the petitioner as proclaimed person vide order dated 05.11.2022 cannot stand the scrutiny of law.

8. In view of the above, the present petition is allowed. Resultantly, the proclamation having not been read over in public place, thus, being in violation of mandate of Section 82(2)(i)(a) Cr.P.C., the order dated 05.11.2022 is hereby quashed. The petitioner shall appear before the Trial Court on or before the next date i.e. 16.02.2024 and would furnish his fresh bail bonds/surety bonds to the satisfaction of the Trial Court, which shall be accepted by the Court concerned. Till then, no coercive steps shall be taken against the petitioner.

25.01.2024
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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned: yes/no
Whether reportable? yes/no