

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

CRM-M-6506-2023

Date of Decision: January 31, 2024

DES RAJ ALIAS DESH RAJ ALIAS DES RAJ SAROYAPetitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA**Present:** Mr. S.S. Khokhar, Advocate for the petitioner.

Mr. Gurlal Singh Dhillon, AAG, Punjab.

HARKESH MANUJA, J. (ORAL)

1. By way of present petition filed under Section 482 CrPC, prayer has been made for quashing of the order dated 05.11.2012 passed by learned Judicial Magistrate First Class, Jalandhar whereby the petitioner was declared as proclaimed person.

2. In the present case, having been implicated as an accused in FIR No.85 dated 10.08.2012 registered under Sections 406 and 420 IPC at P.S. Bhogpur, District Jalandhar City, the petitioner having failed to appear before the trial Court was declared as proclaimed person vide order dated 05.11.2012.

3. Impugning the aforesaid order, learned counsel for the petitioner submits that the proceedings under Section 82 of CrPC were carried out against the petitioner in violation of the mandatory procedure laid down in the statute as the proclamation was never read over in the public place. The said fact can be substantiated even from the

statement of the Executant-Police Officer which was recorded on 05.11.2012 by the Court concerned.

4. On the other hand, learned counsel for the respondent-State submits that despite having knowledge about the proceedings pertaining to the FIR in question, the petitioner chose not to submit himself to the jurisdiction of the Court and thus, the impugned order warrants no interference.

5. I have heard learned counsel for the parties and gone through the paper-book. I find substance in the submissions made by learned counsel for the petitioner.

6. In the present case, the statement of Executant-Police Officer was recorded on 05.11.2012 as per which, the proclamation under Section 82 of CrPC qua the petitioner was effected on 02.11.2012. The statement dated 05.11.2012 is reproduced hereunder:-

Statement of H.C. Satokh Singh No.684 –unread-

“Stated that on dated 02.11.12 I went along with Proclamation of accused Des Raj S/o Joginder Lal R/o Kingra Cho Wala at his given address for information. Accused was not found at the spot. A copy was pasted at the given address, second copy was passed at the common place and third copy was pasted on the Notice Board of the Court and along with fourth copy report today I am present in the Court. Copy of advertisement is Ex.P1 and the report is Ex. P2.

R.A. O.C

Sd/-Santokh Singh

SD/-

JMIC

Dated 05.11.2012”

7. A perusal of the aforesaid statement shows that the proclamation was never read over in public place in terms of Section

82(2)(i)(a). Moreover, once the proclamation was effected on 02.11.2012, the declaration of petitioner as proclaimed person on 05.11.2012 was wholly in violation of mandate of section 82 of CrPC as no clear cut period of 30 days was ever afforded to the petitioner so as to put in appearance before the trial Court.

8. In view of the aforesaid, the proclamation thus having been effected in violation of mandate of statutory provisions, the same is wholly unsustainable in the eyes of law. Resultantly, the order dated 05.11.2012 passed by learned Judicial Magistrate First Class, Jalandhar is hereby set aside. Considering the fact that the petitioner has chosen to approach this Court after a period of almost 11 years, he shall be saddled with the costs of Rs.1,00,000/-, out of which Rs.50,000/- shall be deposited with Poor Patients' Welfare Fund, PGIMER, Chandigarh and the remaining amount be deposited with Shishu Greh (Children Home), Sector-15, Panchkula. The amount of costs shall be deposited within a period of 15 days from today.

9. Disposed of in the aforesaid terms.

31.01.2024

Tejwinder

(HARKESH MANUJA)
JUDGE

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