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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-5818-2024
Date of decision: 05.02.2024

Vijay Sagar ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Beant Singh Seemar, Advocate for the petitioner.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner seeking quashing of order dated 01.03.2021 Annexure P-2 passed by the Court of Judicial Magistrate, Ist Class, Malout whereby the petitioner was declared as proclaimed offender in criminal case having FIR No.199 dated 19.07.2020 under Section 302/34 of IPC registered at Police Station Lambi, District Sri Muktsar Sahib (Annexure P-4).
2. Notice of motion.
3. Mr. J.S. Guru, AAG, Punjab accepts notice on behalf of the State.
4. The counsel for the petitioner while assailing order Annexure P-2, submits that the same deserves to be set aside being not passed in accordance with the mandate of Section 82 Cr.P.C. The counsel for the petitioner further submits that even the statutory period of 30 days as provided in Section 82 (1) Cr.P.C. was not given to the petitioner requiring

him to appear in the Court concerned, from the date of publication of proclamation. In this regard, the counsel for the petitioner referred to order Annexure P-3 whereby proclamation of the petitioner was issued for 25.01.2021 vide order dated 21.12.2020 and the said proclamation was executed on 21.01.2021 and thus, only 4 days time was given to the petitioner to appear in the Court concerned as the next date fixed for such appearance was 25.01.2021. The counsel for the petitioner further submits that thus, the impugned order Annexure P-2 is totally illegal and deserves to be set aside.

5. The State counsel while supporting impugned order Annexure P-2 dated 01.03.2021 submits that the petitioner was absconding and as such the Court below invoked provision of Section 82 of Cr.P.C. and the proclamation of the petitioner was effected and the petitioner was given 30 days time to appear before the Court concerned as is evident from orders dated 25.01.2021 and 01.03.2021 passed by the said Court. It is further submitted that the present petition deserves to be dismissed.

6. I have considered the submissions made by counsel for the parties.

7. The petitioner was named as accused in FIR Annexure P-1 and thereafter, the police was unable to arrest the petitioner and his warrants of arrest were received back unexecuted. Finally, the Court concerned issued proclamation of the petitioner for 25.01.2021, under Section 82 Cr.P.C vide order dated 21.12.2020. The proclamation was effected on 21.01.2021 by serving police official. It appears on the record that the petitioner was not given 30 days statutory period to appear before the Court concerned, as the

petitioner was required to appear before the said Court on 25.01.2021 on the basis of the proclamation which was published on 21.01.2021. The time period for such appearance of petitioner, which was extended to 01.03.2021 by the Court concerned vide order dated 25.01.2021 is not of much significance as no notice of the said order dated 25.01.2021 was ever served upon the petitioner. So, in the present case, the statutory period of 30 days as provided in Section 82 (1) Cr.P.C. was not given to the petitioner requiring him to appear before the Court concerned, from the date of publishing of such proclamation. This view of mine finds support from decision of this Court in **Ashok Kumar Vs. State of Haryana & Anr. (Crl. Misc. No. M-13638 of 2013, decided on 05.08.2013)**.

8. It follows that the petitioner was wrongly declared as a proclaimed person vide impugned order Annexure P-2 dated 01.03.2021 by the Court concerned in breach of the prescribed procedure and impugned order suffers from material illegality and is liable to be set aside.

9. In the light of the above, without expressing any opinion on the merits of the case, the present petition is allowed and impugned order Annexure P-2 dated 01.03.2021 is set aside. The present petition stands disposed of in aforesaid terms.

05.02.2024

Yogesh

**(KARAMJIT SINGH)
JUDGE**

**Whether speaking/reasoned:-
Whether reportable:-**

**Yes/No
Yes/No**