

CRM-M-6008-2024 (O&M)

get the warrant executed or concealed himself or that he was absconding. Vide order dated 22.02.2018, the proclamation was directed to be issued under Section 82 Cr.P.C. for 14.05.2018. The executing Constable was directed to appear on 13.04.2018 for making the statement regarding execution of proclamation.

[3] Learned counsel then drawn attention towards the statement (Annexure P-7) made by HC Vinod, as per which, he went to the village of the accused i.e. petitioner to effect the proclamation but the house was found locked. Neighbours told that petitioner did not reside there whereas, his parents had gone somewhere to do the labour work and then copy of the proclamation was pasted outside the house. *Munadi* was effected. One copy was pasted on the notice board of the Court whereas, the third copy was being produced in the Court.

[4] Based on this statement, the petitioner was declared proclaimed person vide impugned order dated 24.05.2018 (Annexure P-1).

[5] Learned counsel contends that declaration of the petitioner as proclaimed person is in utter violation of Section 82 Cr.P.C. inasmuch as, the proclamation is required to be publically read in some conspicuous place of the town or village, where the concerned person usually resides. Besides a copy of the proclamation is required to be affixed at some conspicuous part of the house or homestead of the person where he ordinarily resides and another copy at some conspicuous part of such town

CRM-M-6008-2024 (O&M)

[6] Learned counsel contends that in the present case, neither the proclamation was published at conspicuous place of the town or village nor the copy of the proclamation was affixed at the conspicuous place of town or village.

[7] Apart from above, learned counsel further contends that before issuing the proclamation under Section 82(1) Cr.P.C., the Court is required to record the reason so as to believe that the concerned person against whom the warrant had been issued, had absconded or was concealing himself due to which the warrant cannot be executed. However, in the present case, order dated 12.02.2018 (Annexure P-22), whereby the proclamation is directed to be issued does not show recording of any such satisfaction. The order simply says that as the warrant of arrest were received back unexecuted and an application for issuance of proclamation had been moved, therefore, it was apparent that presence of the petitioner could not be secured through NBW and so the proclamation was issued.

[8] Learned counsel contends that in all the aforesaid circumstances, the order dated 22.02.2018 whereby the proclamation is directed to be issued; order dated 24.05.2018 whereby, petitioner was declared proclaimed person and the consequent FIR are illegal.

[9] Learned State Counsel could not refute any of the aforesaid contentions, which are based on record of the case.

[10] Learned counsel for the petitioner has also placed on record copy of order dated 09.02.2024 passed by the Court of learned Sessions

CRM-M-6008-2024 (O&M)

Judge, Sirsa, so as to contend that petitioner was given the benefit of interim anticipatory bail in case FIR No.001 dated 02.01.2017, under Sections 454 and 380 IPC, 1860, registered at Police Station City Sirsa, District Sirsa, Haryana, in which, he had been declared earlier as proclaimed person and that order was later on made absolute on 27.02.2024.

[11] Having regard to all the facts and circumstances, as have been noticed above, and as has been pointed out by learned counsel for the petitioner, which have not been refuted by learned State Counsel, it is noticed by this Court that order dated 22.02.2018 whereby, proclamation under Section 82(1) Cr.P.C. was directed to be issued is in utter violation of Section 82(1) Cr.P.C. It is further found that order dated 24.05.2018 (Annexure P-1) whereby, the petitioner was declared as proclaimed person is also in utter violation of mandatory provisions of Section 82 (2) Cr.P.C.

[12] Consequently, both these orders are hereby quashed. Consequent FIR No.851 dated 16.12.2023 under Section 174-A IPC, 1860, registered at Police Station Sirsa City, District Sirsa, Haryana is also hereby quashed.

(DEEPAK GUPTA)
JUDGE

06.03.2024
'Rajneesh'

Whether speaking/ reasoned : Yes/No
Whether reportable : Yes/No