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2024:PHHC:016174

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM-M-6361-2024

Date of Decision: February 06, 2024

BALBIR SINGH @ BAL SINGH

.....Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Parvinder Singh, Advocate for
Mr. Atul Goyal, Advocate for the petitioner.
Mr. Gurlal Singh Dhillon, AAG, Punjab.

HARKESH MANUJA, J. (ORAL)

By way of present petition filed under Section 482 of CrPC prayer has been made for setting aside the order dated 19.01.2024 whereby, the petitioner was declared as proclaimed person followed by issuance of directions regarding registration of the FIR under Section 174-A of IPC against him in complaint titled as “Nagar Panchayat, Kiratpur Sahib Vs. Balbir Singh Etc. bearing No.33/2020”

2. In pursuance to a complaint having been filed at the instance of respondent No.2 against the petitioner regarding alleged offence under Section 228 read with Sections 195, 195-A of the Punjab Municipal Act, 1911, the petitioner was summoned by the Judicial Magistrate First Class, Sri Anandpur Sahib vide order dated 08.04.2021. Having failed to put in appearance, the petitioner was later declared as proclaimed person vide order dated 19.01.2024.

3. Impugning the aforesaid order, learned counsel for the petitioner submits that the proclamation under Section 82 CrPC was issued vide order dated 22.11.2023 for 19.01.2024, being the date for

appearance. The proclamation was effected on 08.12.2023 and on account of non-appearance of petitioner on 19.01.2024, the petitioner was declared as proclaimed person. Learned counsel points out that the proclamation dated 22.11.2023 which was effected on 08.12.2023, it nowhere contained that on account of non-appearance of the petitioner on the date fixed he was to be declared as proclaimed offender and thus, the real intent of Section 82 CrPC which was to apprise him about the date of hearing besides his impending declaration as that of proclaimed person was never effectively conveyed.

4. On the other hand, learned State counsel opposes the prayer made herein while submitting that the petitioner despite having knowledge about the pendency of proceedings against him, 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. A perusal of the proclamation issued under Section 82 of CrPC shows that the same nowhere contains any stipulation that in case, the petitioner chose not to appear on the date fixed, he would be declared as proclaimed person. Once the non-appearance of the petitioner in pursuance to the proclamation entails penal consequence in the shape of he being declared as proclaimed person/proclaimed offender, any such proclamation issued under Section 82 of CrPC is

required to contain a specific stipulation in this regard so as to give the real meaning and intent to the statutory provision which primarily emanates from Article 21 of the Constitution of India and regulating the liberty of an individual.

7. In view of the discussion made hereinabove, the order dated 19.01.2024 declaring the petitioner as proclaimed person is hereby set aside. The present petition is allowed.

8. Further, the petitioner shall put in appearance before the trial Court within a period of 7 days from today and in case of his doing so, he shall be released on bail on his furnishing adequate bail bonds/surety bonds along with an affidavit of assurance that he shall continue to appear before the trial Court unless granted exemption specifically to its satisfaction. Till then no coercive steps shall be taken against him.

06.02.2024

Tejwinder

(HARKESH MANUJA)
JUDGE

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

