

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

**CRM-M No. 6881 of 2024 (O&M)
Date of Decision: 09.02.2024**

Kuldeep Singh

..... Petitioner

Versus

Tejinder Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Munish Bhardwaj, Advocate
for the petitioner.

HARKESH MANUJA, J. (ORAL)

The petitioner, by way of present petition filed under Section 482 Cr.P.C., seeks quashing of the order dated 04.11.2023 (Annexure P-7) passed by learned Judicial Magistrate Ist Class, Khanna, whereby he was declared as Proclaimed Person in complaint case bearing NACT-101-18, titled “*Tejinder Singh Versus Kuldeep Singh*”.

[2] In the present case, having been summoned in the complaint filed under Section 138 of the Negotiable Instruments Act, the petitioner was initially granted bail and continued thereafter to appear before the Court concerned, but for 09.06.2023 when on account of certain personal reasons, he could not appear before the trial Court, resulting into passing of the order dated 04.11.2023 declaring him as proclaimed person.

[3] Learned counsel for the petitioner submits that while declaring the petitioner as proclaimed person, the mandatory compliance of Section 82 Cr.P.C. was not made as the proclamation was never read over in public place by

the executant police officer, thereby violating Section 82 (2) (i) (a) of the Code of Criminal Procedure.

[4] Though, the State of Punjab has not been impleaded as party respondent, and the proceedings of proclamation declaring the petitioner as proclaimed person primarily relates between him and the State; thus, on the oral request of the learned counsel for petitioner, the State of Punjab is impleaded as party respondent No. 2.

[5] Notice of motion *qua* respondent No. 2 – State of Punjab only.

[6] Mr. Shubham Kaushik, Assistant Advocate General, Punjab, accepts notice on behalf of respondent No. 2 and vehemently opposes the prayer made in the petition while submitting that despite having knowledge about the pendency of proceedings, the petitioner chose not to appear before the trial Court and thus, the proceedings initiated against him in the impugned order, warrants no interference.

[7] I have heard learned counsel for the parties as well as gone through the paper-book and find substance in submissions made on behalf of the petitioner.

[8] In the present case, the proclamation under Section 82 Cr.P.C. was ordered against the petitioner by the trial Court on 05.08.2023 with 30.09.2023 being the date for appearance; however on 30.09.2023, on account of proclamation having not been effected, a fresh order was passed for 04.11.2023 and the statement of the executant police official was recorded on 13.10.2023 that the proclamation was done on 29.08.2023. In pursuance thereof, the petitioner was declared as proclaimed person on

04.11.2023. The orders dated 30.09.2023 & 13.10.2023 are reproduced hereunder:-

“(1) Order Dated: 30.09.2023:

Nact101-18 Tejinder Singh Vs. Kuldeep Singh
CNR No: PBLDA10012972018

Present:- Shri J.S.Aujla, Advocate Counsel for the complainant.

Proclamation against the accused issued but not received back. Let fresh proclamation under Section 82 Cr.P.C. be issued against the accused for compelling his appearance before the Court for 04.11.2023. The process serving official is directed to effect the said proclamation till 13.10.2023 and to get record his statement on 13.10.2023 in the court. Now this file be put up on 13.10.2023 for recording statement of process serving official.

*Date of Order: 30.09.2023. (Deepal Singh Chhina), PCS,
Judicial Magistrate Ist Class,
Ritu Sharma Khanna.*

“(2) Order Dated: 13.10.2023:

Nact101-18 Tejinder Singh Vs. Kuldeep Singh

CNR No: PBLDA10012972018

Present:- Shri J.S.Aujla, Advocate Counsel for the complainant.

Proclamation u/s 82 CrPC against accused Kuldeep Singh has been received back duly executed. Today, serving official Ct. Talwinder Singh has come present and has suffered a separate statement that proclamation notice of accused issued by this court was entrusted to him by SHO for compliance. Original proclamation warrant is Ex.PA. On 29.08.2023 he reached at the address of aforesaid accused and affixed one copy of proclamation at the address of aforesaid accused, and he affixed second copy of proclamation at public place and he affixed third copy of proclamation on notice board of this court and his report in this regard is Ex.PB which is signed by him. Since statutory period of 30 days have not yet

elapsed. So, now case is adjourned to 04.11.2023 for awaiting appearance of accused Kuldeep Singh.

*Date of Order: 13.10.2023. (Deepal Singh Chhina), PCS,
Judicial Magistrate Ist Class,
Ritu Sharma Khanna.*

[9] A perusal of the order dated 13.10.2023 reveals that though copies of proclamation were affixed at the address of the petitioner on the public place and on the notice board of the Court, however, it cannot be traced out as to whether the same was ever read in the public place as required under provisions of Section 82 (2) (i) (a) of Cr.P.C. Once, the proclamation was never read out in the public place, it was in direct violation of the aforesaid provisions, thereby rendering the order dated 04.11.2023 being in violation of the mandate laid under Section 82 Cr.P.C.

[10] Resultantly, the order dated 04.11.2023 (P-7) passed by learned JMIC, Khanna, is set aside; the petitioner is directed to surrender himself before the trial Court / Illaqa Magistrate concerned within 10 days from today and will furnish fresh bail / surety bonds, which shall be accepted by the trial Court to its satisfaction and till then, no coercive steps shall be taken against him.

[11] **Disposed off** accordingly.

[12] The aforesaid order shall, however, be subject to payment of costs of Rs. 30,000/- to be paid by the petitioner in favour of the complainant on the date of appearance before the Court concerned.

February 09, 2024

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**(HARKESH MANUJA)
JUDGE**

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