

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-6763 of 2024(O&M)
Date of Decision: 14.02.2024

Dinesh Kumar
...Petitioner
Versus
State of Haryana
...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Yashveer Kharab, Advocate
For the petitioner.

Mr. N.S. Sheoran, DAG Haryana.

KARAMJIT SINGH, J.

1. Prayer in the instant petition filed under Section 482 Cr.P.C. is to quash order dated 09.02.2022 (Annexure P-4) passed by the Court of Chief Judicial Magistrate, Panipat whereby the petitioner has been declared as proclaimed person in case COMA/ 243/ 2019 dated 23.09.2019 titled as State Vs. Dinesh, registered under Sections 177, 181, 113(3), 114, 115 and 194(1) of Motor Vehicles Act and quashing of the consequential FIR No. 161 dated 29.03.2022, registered under Section 174-A IPC at Police Station Panipat City.
2. Notice of motion.
3. Mr. N.S. Sheoran, DAG Haryana accepts notice on behalf of respondents.
4. The counsel for the petitioner submits that impugned order (Annexure P-4) deserves to be set aside as 30 days clear period was not given to the petitioner to appear in the Court concerned, from the date of publication of proclamation. In this regard, counsel for petitioner has

brought to the notice of this Court orders dated 18.10.2021, dated 11.01.2022 and 09.02.2022 which are available on the record. The counsel for the petitioner further submits that as order (Annexure P-4) being illegal is not sustainable, impugned FIR (Annexure P-5) being off-shoot of the aforesaid order also deserves to be set aside.

5. The State counsel submits that petitioner failed to respond to the summons issued by the trial Court and thereafter warrants of the petitioner were also issued but petitioner failed to appear before the learned trial Court and then the Court invoked provisions of Section 82 Cr.P.C. and passed impugned order (Annexure P-4) whereby the petitioner was declared as proclaimed person and resultantly FIR (Annexure P-5) was also got registered against the petitioner under Section 174-A of IPC.

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

7. From the perusal of order dated 18.10.2021, it appears that proclamation of petitioner under Section 82 Cr.P.C. was issued by the trial Court for 11.01.2022. From a perusal of order dated 11.01.2022 it is apparent that the proclamation against the petitioner was effected on 01.01.2022 but as the statutory period of 30 days was not expired, the trial Court adjourned the case to 09.02.0222 for appearance of the petitioner and finally on 09.02.2022 as petitioner failed to appear, he was declared proclaimed person by the trial Court. One thing is clear that no intimation with regard to order dated 11.01.2022 whereby the learned trial Court extended the time for appearance of the petitioner up to 09.02.2022 was given to the petitioner. So, it is evident that clear 30 days' time as per the mandate of Section 82 Cr.P.C. was not given to the petitioner to put in his

appearance before the Court concerned from the date of publishing of the proclamation. Thus, the impugned order was not passed in consonance with the provision of Section 82 Cr.P.C. and deserves to be set aside. In this regard, reference be made to **Ashok Kumar Vs. State of Haryana**, CrI. Misc. No. M-13638 of 2013, decided on 05.08.2013

8. Admittedly, impugned FIR (Annexure P-5) is also arising out of impugned order (Annexure P-4) dated 09.02.2022. As order (Annexure P-4) is not sustainable in eyes of law, FIR (Annexure P-5) is also not sustainable.

9. For the foregoing reasons, the present petition is allowed and impugned order dated 09.02.0222 (Annexure P-4) passed by the Court of Chief Judicial Magistrate, Panipat and FIR No. 161 dated 29.03.2022, under Section 174-A IPC, Police Station City Panipat (Annexure P-5) are hereby quashed.

(KARAMJIT SINGH)
JUDGE

14.02.2024

Jiten

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No