



283 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-7565-2024
Decided on:-08.05.2024

PratibhaPetitioner..

VS.

State of Punjab and othersRespondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Satnam Singh Thakur, Advocate,
for the petitioner.

Mr. Siddharth Sandhu, AAG, Punjab.

Mr. Anshul Sharma, Advocate,
for respondents No.2 to 4.

HARKESH MANUJA J. (Oral)

1. By way of present petition filed under Section 482 Cr.P.C., prayer has been made for setting aside the order dated 02.05.2023, whereby the petitioner was declared as proclaimed person.
2. Having been arrayed as an accused in General Diary No.36, dated 01.08.2021, registered under Sections 323, 324, 148 and 149 IPC, at Police Station Jalandhar Cantt, District Jalandhar in FIR No.87 dated 01.08.2021, under Sections 323, 324, 354, 34 IPC (Section 354 IPC deleted later on), Police Station Jalandhar Cantt, District Jalandhar, petitioner on account of her non-appearance before the trial Court was declared as proclaimed person vide impugned order dated 02.05.2023.
3. Impugning the aforesaid order, learned counsel for the petitioner

against her in accordance with statutory mandatory procedure. He further submits that the Executant Police Officer knew about the factum of petitioner being abroad and thus, unless necessary steps under Section 105 Cr.P.C. were initiated, the proceedings under Section 82 Cr.P.C. could not have been finalized against the petitioner. As such, the impugned order is unsustainable in the eyes of law.

4. On other hand, prayer made herein has been vehemently opposed at the instance of learned State counsel while submitting that the petitioner though been admitted to regular bail by the investigating officer was fully conscious of the pendency of the proceedings pending against her, however, she went abroad, that too, without seeking permission of the trial 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 on behalf of the petitioner.

6. In the present case, the proclamation proceedings under Section 82 Cr.P.C. was ordered on 09.01.2023 for 06.03.2023 being the date for appearance. The proclamation was effected on 02.02.2023, whereas, the petitioner was declared as proclaimed person on 02.05.2023, however, for the said date, no proclamation under Section 82 Cr.P.C. was ever issued qua her and thus, the declaration of the petitioner as proclaimed person on 02.05.2023 on account of her non-appearance, was wholly uncalled for.

7. A perusal of statement made by Executant Police Officer ASI Jagpal Singh shows that he was conscious of the fact that the petitioner had gone abroad and thus, without initiating any steps to effect service upon the petitioner in accordance with Section 105 Cr.P.C., the petitioner could not

have been declared as proclaimed person and thus, the proceedings carried out against the petitioner while declaring her as proclaimed person in terms of order dated 02.05.2023, was not sustainable.

8. Moreover, learned counsel for the petitioner on instructions from his client, submit that she volunteers to serve public cause by providing one (01) Water Cooler and one (01) RO to Civil Hospital, Jalandhar.

9. Even otherwise, in similarly situated facts and circumstances, a Coordinate Bench of this Court has allowed the petition vide order dated 27.07.2022 passed in CRM-M-27459-2022, titled as “***Palvika Singh @ Natika @ Nitika vs. State of Punjab and another***”.

10. In view of the discussion made herein above, the present petition is allowed. Order dated 02.05.2023, declaring the petitioner as proclaimed person and all other subsequent proceedings arising therefrom are ordered to be quashed qua the petitioner.

11. The aforesaid order, however, shall be subject to providing (01) Water Cooler and one (01) RO to the Civil Hospital, Jalandhar, within a period of two weeks from the date of receipt of certified copy of this order as volunteered by the petitioner against due receipt issued by the concerned Civil Surgeon, who shall prepare an inventory in this regard for its regular inspection by the Director concerned. A copy of the receipt shall also be sent to the office of Advocate General, Punjab at the earliest for maintaining records in this regard.

08.05.2024
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(HARKESH MANUJA)
JUDGE

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