

CRM-M No.7319 of 2024

2024:PHHC:019400

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.7319 of 2024
Date of Decision: 12.02.2024

DAVINDER SINGH @ SHERRY

.....Petitioner(s)

Vs
STATE OF PUNJAB

....Respondent(s)

CORAM: *HON'BLE MR. JUSTICE HARKESH MANUJA*

Present: Mr. Vikasdeep Singh, Advocate
for the petitioner

Mr. Rajinder Singh Bhatta, D.A.G., Punjab.

HARKESH MANUJA, J. (Oral)

[1]. By way of present petition filed under Section 482 Cr.P.C., prayer has been made for quashing of order dated 31.01.2024 passed by the Sub-Divisional Judicial Magistrate, Sultanpur Lodhi, whereby the petitioner has been declared as proclaimed person.

[2]. Having been arrayed as an accused in FIR No.115 dated 27.04.2020 registered under Sections 188/452/323/506/34 IPC at Police Station Sultanpur Lodhi, District Kapurthala, the petitioner was granted concession of pre-arrest bail on 27.05.2020, but on account of his absence on 25.05.2023, notice was issued to him for his appearance.

[3]. The Trial Court vide order dated 19.10.2023 issued proclamation under Section 82 Cr.P.C. against the petitioner for 07.12.2023 being the date of his appearance. The proclamation in pursuance thereof was effected on 05.12.2023 just two days prior to the date fixed for appearance and resultantly, the Court

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concerned on 07.12.2023 adjourned the matter for 31.01.2024 awaiting appearance of the petitioner and on the said date, on account of absence of the petitioner, he was declared as proclaimed person. The orders dated 19.10.2023 and 07.12.2023 are reproduced hereunder:-

*Present: Sh. Shailender Gill Ld. APP for the State assisted by Sh. M.S. Thind Adv., for the complainant.
Proceedings against accused Rajanvir Singh @ Naman abated.
None for the accused Davinder Singh @ Sherry and Gurmeet Singh.*

Non-bailable warrants issued against accused Gurmeet Singh received back with the report of not residing since last 9-10 months. This Court is satisfied that accused is having the knowledge of the present case and he is intentionally concealing himself from the process of the Court. Let, proclamation process U/s 82 Cr.P.C. issued against accused for 07.12.2023 at the last known address. Notice to surety under Section 446 of Cr.P.C. be issued for the date fixed.

Non-bailable warrants issued against accused Davinder Singh @ Sherry Singh received back unexecuted. This Court is satisfied that accused is having the knowledge of the present case and he is intentionally concealing himself from the process of the Court. Let, proclamation process U/s 82 Cr.P.C. issued against accused for the date fixed. Notice to surety under Section 446 of Cr.P.C. be issued for the date fixed.

Date of Order: 19.10.2023

*(Mehak Sabharwal)
Sub Divisional Judicial Magistrate
UID NO . PB00385"*

*Present: Sh. Shailender Gill Ld. APP for the State assisted by Sh. M.S. Thind Adv., for the complainant.
Proceedings against accused Rajanvir Singh @ Naman abated.
None for the accused Davinder Singh @ Sherry and Gurmeet Singh.*

Proclamation process of accused Davinder Singh @ Sherry and Gurmeet Singh received back duly executed. Statement of serving constable recorded. Perusal of file reveals that proclamation against

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accused was effected on 05.12.2023. Now, the case stands adjourned to 31.01.2024 for awaiting the presence of the accused Davinder Singh @ Sherry and Gurmeet Singh, as mandatory period 30 days has not elapsed. Notice to their surety under Section 446 of Cr.P.C. be issued for the date fixed.

Date of Order: 07.12.2023

*(Mehak Sabharwal)
Sub Divisional Judicial Magistrate
UID NO . PB00385”*

[4]. Learned counsel for the petitioner submits that proclamation proceedings initiated against the petitioner were totally in violation of the mandate of Section 82 Cr.P.C. and thus, the order dated 31.01.2024 declaring the petitioner as proclaimed person is liable to be set aside.

[5]. On the other hand, learned State counsel vehemently opposed the prayer while submitting that the petitioner despite having knowledge about the pendency of proceedings against him in the Trial Court, chose not to present himself before the Court concerned on the date fixed and thus, the impugned order warrants no interference.

[6]. I have heard learned counsel for the parties and gone through the paper book.

[7]. In the present case, the proclamation was ordered to be issued on 19.10.2023 for 07.12.2023 being the date for appearance of the petitioner. Whereas proclamation was effected on 05.12.2023 for 07.12.2023 when the matter was adjourned for 30.01.2024 as the time period between the publication and date for appearance clearly fell short of statutory period of 30 days. However on account of his non-appearance of the petitioner, he was declared as proclaimed person on

31.01.2024 on account of his non-appearance whereas there was no proclamation published under Section 82 Cr.P.C. for the said date i.e. 31.01.2024.

[8]. In view of the matter, the declaration of the petitioner as proclaimed person on 31.01.2024 was in violation of Section 82 Cr.P.C., resultantly the present petition is allowed and the order dated 31.01.2024 passed by the Sub-Divisional Judicial Magistrate, Sultanpur Lodhi is hereby set aside. Petitioner is directed to appear before the Trial Court within a period of one week from today and furnish his bail bonds/surety bonds to the satisfaction of the Trial Court. The petitioner shall also file an affidavit that he will appear on each and every date of hearing except in case of the exemptions specifically granted by the Court concerned.

[9]. The aforesaid order, however, shall be subject to payment of cost(s) of Rs.5,000/- (Rupees Five thousand only) to be deposited with the District Legal Services Authority, Kapurthala. Till then, no coercive steps be taken against the petitioner.

February 12, 2024
Atik

(HARKESH MANUJA)
JUDGE

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