

**CRM-M-17741 of 2024 (O&M)****S.No.126****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH************CRM-M-17741 of 2024 (O&M)****Date of Decision:16.05.2024****Sonu Bansal @ Sonu****.....Petitioner****Vs.****State of Haryana****.....Respondent****CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA****Present:- Mr. Shiv Narayan, Advocate for the applicant-petitioner.************DEEPAK GUPTA, J.****CRM No.18771 of 2024**

This is an application moved by the applicant- petitioner under Section 482 Cr.P.C to place on record copies of the zimni orders as passed in complaint case No.402 of 2017, in which applicant- petitioner was declared Proclaimed Person (Also mentioned as Proclaimed Offender in the order dated 09.08.2019 by JMIC, Ambala) as Annexure P5 (colly).

Application is allowed. Annexure P5 (colly) is taken on record.

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By way of present petition filed under Section 482 Cr.P.C., petitioner prays for quashing of FIR No.152 dated 16.02.2020 (Annexure P.1) registered under Section 174-A IPC at Police Station Mahesh Nagar, District Ambala; and setting aside the order dated 16.10.2023 (Annexure P.4), whereby warrants of arrest have been issued against him.

2. It is contended by learned counsel that in the Criminal Complaint No.COMA-402 of 2017 titled "Deepak Vs. Sonu", filed in the Court of learned Judicial Magistrate Ist Class, Ambala, the petitioner was declared Proclaimed Person/Proclaimed Offender by way of order dated

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09.08.2019 (Annexure P.2) in non-compliance of Section 82 Cr.P.C and, therefore, the consequent FIR No.152 dated 16.02.2020 registered under Section 174-A IPC at Police Station Mahesh Nagar, District Ambala deserves to be quashed along with all consequential proceedings.

3. Perusal of the various zimni orders passed by learned Judicial Magistrate Ist Class, Ambala in the complaint case, in which petitioner was declared Proclaimed Person/ Proclaimed Offender, would reveal that after passing of the summoning order, notice issued to the accused- petitioner was received back unserved as per order dated 10.05.2018. Fresh notice was directed to be issued for 23.07.2018. The petitioner was duly served for 23.07.2018, as per the zimni order placed on record but he did not appear and so, bailable warrants were directed to be issued against him. However, his presence could not be secured and then warrants of arrest were issued, which remained unexecuted and as such, proclamation under Section 82 Cr.P.C was directed to be issued for 12.07.2019, as per order dated 15.06.2019.

4. Learned counsel for the petitioner contends that as per the order dated 12.07.2019 passed by learned Judicial Magistrate Ist Class, Ambala, the proclamation was duly published on 03.07.2019 and as the date of surrender/ appearance for the petitioner was 12.07.2019, so obviously 30 days had not expired and so, the matter was adjourned by the Court to 09.08.2019. Learned counsel has then drawn attention towards the order dated 09.08.2019 so as to contend that although no proclamation was issued for that date, but he was declared Proclaimed Person/ Proclaimed Offender on that date, in violation of Section 82 Cr.P.C.

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5. Apart from above, learned counsel for the petitioner also contends that as the petitioner came to know that he had been declared Proclaimed Person/ Proclaimed Offender, he approached the complainant of the case and the matter was amicably settled between the parties and then the complaint was dismissed as withdrawn vide order dated 18.01.2021, copy of which is Annexure P.3. However, prior to passing of this order dated 18.01.2021, and the consequent to the order dated 09.08.2019, FIR No.152 dated 16.02.2020 under Section 174-A IPC was registered at Police Station Mahesh Nagar, District Ambala, in which warrants of arrest against the petitioner have been issued against petitioner vide order dated 16.10.2023.

6. Learned State Counsel could not refute the afore-said contentions, which are based upon record of the Court.

7. As per the requirement of Section 82 Cr.P.C., the minimum period of 30 days is required to be given to a person for his appearance/ surrender before the Court. The specified place and time of not less than 30 days from the date of publication of the said proclamation, is required to be mentioned on the proclamation as per requirement of Section 82 Cr.P.C.

8. In the present case, the proclamation was issued under Section 82 Cr.P.C., as per order dated 15.06.2019 for 12.07.2019. Meaning thereby, petitioner was required to surrender/appear before the Court on or before 12.07.2019. However, proclamation itself was published on 03.07.2019, as is evident from the order dated 12.07.2019 of the Court of learned Judicial Magistrate Ist Class, Ambala. Thus, a period of 30 days was not provided to the petitioner for appearance/ surrender before the Court from the date of publication of the proclamation i.e. 03.07.2019. Although, the matter was

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adjourned by the Court to 09.08.2019 but no fresh proclamation was issued by the Court for appearance/ surrender of the petitioner before the Court on 09.08.2019 and, as such, on that date, he could not have been declared as Proclaimed Person/Proclaimed Offender.

9. Consequently, it is held that order dated 09.08.2019, whereby petitioner was declared as Proclaimed Person/ Proclaimed Offender is illegal, being clearly in violation of Section 82 Cr.P.C., and therefore, the consequent registration of FIR No.152 dated 16.02.2020 under Section 174-A IPC at PS Mahesh Nagar, cannot be sustained in the eyes of law. As such, the said FIR along with consequent proceedings including the order dated 16.10.2023 (Annexure P.4), whereby warrants of arrest have been issued against the petitioner, are hereby quashed.

Disposed of accordingly.

May 16, 2024
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(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No