

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

124

CRM-M No.8512 of 2024
Date of Decision: 06.03.2024

LOVISH @LAVISH

.....Petitioner(s)

Vs

STATE OF PUNJAB AND OTHERS

....Respondent(s)

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

Present: Mr. Lakshay Bector, Advocate
for the petitioner.

Mr. Athar Ahmed, DAG, Punjab.

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 11.09.2023 (Annexure P-2) passed by the Addl. Sessions Judge, Ludhiana, whereby the petitioner was declared as an proclaimed offender.
2. Having been implicated in an FIR No.179 dated 30.12.2022 registered under Section 377 IPC and Section 4 of the POCSO Act, 2012 at Police Station Basti Jodhewal, Ludhiana, on account of his absence petitioner was declared as a proclaimed offender vide order dated 11.09.2023 passed by the Addl. Sessions Judge, Ludhiana.
3. Impugning the aforesaid order, learned counsel for the petitioner submits that declaration of the petitioner as that of proclaimed offender was in violation of the mandate of Section 82 Cr.P.C. as the proclamation was never read out in public place of city where the petitioner was residing.
4. On the other hand, learned State counsel vehemently opposed the prayer made on behalf of the petitioner while submitting that the proclamation was

duly effected at the residence of the petitioner besides one copy thereof being affixed within the Court premises and the other one at the railway station/bus stand and, thus there was substantial compliance of Section 82 Cr.P.C. and 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. Perusal of statement of executant police official HC Ranjit Singh, P.S. Basti Jodhewal, Ludhiana which was recorded on 05.08.2023 shows that the proclamation under Section 82 Cr.P.C. was never carried out in public place thereby resulting into non-compliance of mandate of Section 82(2)(i)(a) Cr.P.C. Once the declaration of the petitioner as that of proclaimed offender was in violation of the mandatory procedure laid down under Section 82 Cr.P.C., the same become unsustainable in law.

7. Resultantly, the present petition is allowed and impugned order dated 11.09.2023 passed by the Addl. Sessions Judge, Ludhiana is hereby set aside, however subject to payment of cost(s) of Rs.5,000/- to be deposited with District Legal Services Authority, Ludhiana. Petitioner is directed to submit himself to the jurisdiction of the Trial Court and seek his remedies as regards bail/anticipatory bail in accordance with law.

March 06, 2024
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(HARKESH MANUJA)
JUDGE

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