

GURDEEP SINGH

Versus

STATE OF PUNJAB AND ANOTHER

.....Petitioner

.....Respondents

CORAM: HON'BLE MWR. JUSTICE HARKESH MANUJA

Present: Mr. Sunny Saggar, Advocate for the petitioner.
Mr. Kewal Singh, Addl. A.G. Punjab.

HARKESH MANUJA, J. (ORAL)

By way of the present petition filed under Section 482 CrPC, prayer has been made for quashing of the order dated 23.12.2014 passed by learned SDJM, Patiala whereby, the petitioner was declared as proclaimed preson having been arrayed as an accused in FIR No.241 dated 09.10.2006 registered under Sections 406, 420 and 120-B IPC at P.S. City Rajpura, District Patiala along with few others.

2. The petitioner was granted concession of regular bail by the Court of learned Sessions Judge, Patiala on 16.01.2007. Challan in the aforementioned FIR was submitted on 14.05.2007 followed by framing of charges on 08.02.2010. The petitioner continued to appear before the trial Court but for 29.10.2014, on account of having left the country for Australia on 23.08.2014, in search of employment and to earn his livelihood. On account of his absence, the petitioner was declared as proclaimed person vide impugned order dated 23.12.2014.

3. Impugning the same, learned counsel for the petitioner submits that impugned order was passed without following the mandatory procedure laid down under Section 82 of CrPC. He also

submits that upon trial, three of the co-accused were convicted and the remaining three were acquitted by the Court of learned Chief Judicial Magistrate, Patiala vide Judgment dated 09.11.2012, subsequently, on account of compromise been entered between the parties, the FIR in question was quashed qua the three convicted persons by this Court vide order dated 16.03.2023 passed in CRM-M-6046-2023 and thus, he prays that the declaration of petitioner as proclaimed person be quashed as he was even ready to appear before the trial Court and to face the trial and also ready to deposit suitable cost.

4. On the other hand, learned State counsel vehemently opposes the prayer made herein while submitting that the petitioner absented himself from the Court proceedings for a long period of almost 10 years. He further submits that being conscious of the fact that the trial was pending against him, the petitioner still without obtaining permission from the Court concerned went to Australia and thus, was not entitled for any kind of concession by this Court. Learned State counsel also submits that the proceedings were carried out against the petitioner after having followed the mandatory procedure laid down under Section 82 of CrPC 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 by learned counsel for the petitioner.

6. In the present case, the proclamation under Section 82 of CrPC was ordered against the petitioner on 12.11.2014 for 27.11.2014 being the date for submission of report qua affixation. Though, the

proclamation was effected on 20.11.2014, however, by 27.11.2014, 30 days' period as contemplated under Section 82 of CrPC required to be afforded to the petitioner so as to put in appearance in pursuance to the proclamation had not expired and the proceedings were adjourned for 23.12.2014 awaiting the appearance of petitioner. In the aforesaid facts, it could not be made out from the records as to what was the date for appearance, given on the proclamation affixed on 27.11.2014, thereby not enabling the petitioner to appear before the trial Court, as the date for appearance was later deferred for 23.12.2014 by the trial Court on 27.11.2014 in pursuance to the affixation made on 20.11.2014. Still further, a perusal of the statement made by the executant-Police Officer regarding affixation of proclamation on 20.11.2014 shows that the proclamation was never read over in public place as required to be done under Section 82 (2) (i) (a) of CrPC and thus, there was apparent non-compliance of mandatory procedure.

7. Moreover, the parties have now settled their dispute and the FIR in question against three accused who were convicted vide judgment dated 09.11.2022 also stands quashed and the allegations against those persons were more or less similar to those levelled against the petitioner. Besides it, the petitioner is also willing to surrender himself before the trial Court and ready to face the proceedings. The petitioner even volunteers to serve public cause by providing Suction Machine/OT and Cautery Machine-Unipolar+Bipolar to A.P. Jain Civil Hospital, Rajpura, District Patiala

8. A cumulative analysis of discussion made hereinabove, finding merits in the present petition, the same is allowed and order dated 23.12.2014 whereby petitioner was declared as proclaimed person is hereby quashed.
9. The petitioner shall however surrender himself before the trial Court within a period of four weeks subject to furnishing of bail bonds/surety bonds to its satisfaction and provide abovementioned medical equipments to A.P. Jain Civil Hospital, Rajpura, District Patiala, as volunteered by him.
10. Till then, no coercive steps be shall be taken against the petitioner.

16.04.2024

(HARKESH MANUJA)

Tejwinder

JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>