

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.**CRM-M-16128-2024****Date of Decision: 4.4.2024**

Kamaljit Singh

....Petitioner**VERSUS**

State of Punjab and another

....Respondents**CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present: Mr. Tanvir Singh Attariwala, Advocate, for the petitioner.

KARAMJIT SINGH, J. (Oral)

Present petition has been filed by the petitioner under Section 482 of Cr.P.C. seeking quashing of order dated 10.5.1997 (Annexure P-1) passed by the Court of Judicial Magistrate, 1st Class, Nawanshahr whereby the petitioner has been declared proclaimed offender in criminal case having FIR No.37 dated 8.5.1996 registered under Sections 323, 324, 34 IPC at Police Station Banga, District Nawanshahr.

2. Counsel for the petitioner submits that the impugned order (Annexure P-1) is not sustainable in the eyes of law as the same was not passed in accordance with due procedure as prescribed in Section 82 of Cr.P.C.. He further submits that at the relevant time, when the proceedings under Section 82 of Cr.P.C. were initiated against the petitioner, he was not available in India and report to this effect was also received by the trial Court as is evident from order dated 29.3.1997 (Annexure P-3). He further submits that the petitioner was not aware about the pendency of any such criminal case and no notice or summons were sent to the petitioner by the Court concerned through Embassy of the concerned country as per provisions of Sections 105 and 105B of Cr.P.C. He further submits that even otherwise, minimum statutory period of 30 days as prescribed in

Section 82 of Cr.P.C. was not given to the petitioner to appear in the Court concerned from the date of publishing of proclamation.

3. Notice of motion.
4. Mr. J.S.Dhaliwal, AAG, Punjab accepts notice on behalf of the State and submits that the petitioner was fully aware about the pendency of the criminal case but intentionally failed to appear in the Court concerned despite publication of proclamation. It is further submitted that there is no illegality or perversity in the impugned order and that the present petition deserves to be dismissed.
5. I have considered the submissions made by the counsel for the parties.
6. From the perusal of the record, it appears that at the relevant time, the petitioner was not available in India and had gone to Canada. However, nothing is available on record to show that notice/summons/warrants with regard to pendency of the aforesaid criminal case were ever sent or served to the petitioner through Canadian Embassy. Further, from the perusal of Annexure P-5, it is also apparent that after the execution of the proclamation was effected, the petitioner was not afforded clear period of 30 days to cause his appearance as per mandate of Section 82 of Cr.P.C.
7. For the foregoing reasons, the impugned order is not sustainable and is hereby set aside.
8. Present petition is disposed of in the aforesaid terms.

(KARAMJIT SINGH)
JUDGE

April 4, 2024
Paritosh Kumar

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