

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARHCRM-M-16058 of 2024 (O&M)  
Date of Decision: 04.04.2024

Mukesh Kumar

...Petitioner

Versus

State of Punjab &amp; Anr.

...Respondents

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Amit Dhawan, Advocate  
For the petitioner.

Mr. J.S. Dhaliwal, AAG Punjab.

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KARAMJIT SINGH, J.

1. The present petition has been filed by the petitioner seeking quashing of the impugned order dated 27.01.2020 (Annexure P-2) whereby the petitioner has been declared as proclaimed person by the Court of learned Judicial Magistrate Ist Class, Jalandhar in criminal case having FIR No. 48 dated 04.03.2017 under Section 406, 420, 120-B IPC at Police Station Navi Baradari, District Police Commissionerate Jalandhar.

2. The counsel for the petitioner, *inter alia*, contends that the impugned order is not passed by the learned trial Court in conformity with the provisions of Section 82 Cr.P.C. as per which 30 days clear period is to be given to the accused person to appear in the Court concerned from the date of publication of proclamation. The counsel for the petitioner further submits that in the present case the proclamation of accused was issued by the learned trial Court for 21.12.2019 vide order dated 13.11.2019 and proclamation was published on 16.12.2019 as is evident from Annexure P-5,

with direction to the petitioner to appear before the Court concerned on

21.12.2019. Thus it is apparent that the required statutory period of 30 days was not given by the learned trial Court for the purpose of appearance of the petitioner. It is further contended that now matter has been compromised between the parties. It is further submitted that the impugned order being not passed in accordance with law is not sustainable and deserves to be set aside.

3. Notice of motion.

4. Mr. J.S. Dhaliwal, AAG Punjab accepts notice on behalf of State of Punjab and submits that the petitioner jumped bail and thereafter his non bailable warrants of arrest were issued and finally his proclamation under Section 82 Cr.P.C. was issued by the learned trial Court vide order dated 13.11.2019 and finally the petitioner was declared as proclaimed person by the learned trial Court vide impugned order dated 27.01.2020 (Annexure P-2) and there is no illegality or infirmity in the same.

5. I have considered the submissions made by counsel for the parties.

6. Admittedly, proclamation of the petitioner under Section 82 Cr.P.C. was issued by the learned trial Court vide order dated 13.11.2019 and as per said proclamation the petitioner was directed to appear in the Court concerned on 21.12.2019 and from the perusal of Annexure P-5 it appears that the said proclamation was published on 16.12.2019 with direction to the petitioner to appear before the Court concerned on 21.12.2019. Vide order dated 21.12.2019 the case was adjourned to 27.01.2020 for awaiting presence of petitioner. However, no intimation with regard to passing of order dated 21.12.2019 was given to the petitioner. Thus, it is evident that in the present case 30 days time as provided in Section 82 Cr.P.C. was not given to the petitioner for his appearance before the Court concerned from the date of publication of proclamation. So, it is

evident that the impugned order was not passed in consonance with the provisions of Section 82 Cr.P.C. In this context, reference is made to the law laid down by this Court in **Ashok Kumar Vs. State of Haryana & Anr. 2013 Vol IV RCR (Cr1.) 550.**

7. In light of above discussion, the impugned order is hereby set aside. The present petition stands disposed of in aforesaid terms.

**04.04.2024**  
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**(KARAMJIT SINGH )**  
**JUDGE**

**Whether speaking/reasoned : Yes/No**  
**Whether reportable : Yes/No**