

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CRM-M No. 17154 of 2024 (O&M)
Date of Decision: 08.04.2024**

Roopam Farms / Sharma Farms and another

..... Petitioners

Versus

Late Krishan Lal Jain through his legal representatives

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. J.S. Thakur, Advocate
for the petitioners.

HARKESH MANUJA, J. (ORAL)

The petitioners, by way of present petition filed under Section 482 Cr.P.C., seek quashing of the order dated 03.12.2022 (Annexure P-5) passed by the learned Judicial Magistrate Ist Class-3, Jalandhar, whereby petitioner No. 2 was declared as Proclaimed Person in complaint case No. NACT-3185-2020, titled “*Santosh Jain Versus Roopam Farm-Sharma Farms etc.*”

[2] In the present case, having been implicated as an accused in the complaint filed under Section 138 of the Negotiable Instruments Act at the instance of respondent(s)-complainant, a summoning order was passed against the petitioners, followed by declaring petitioner No. 2 as proclaimed person on account of his non-appearance, resulting into passing of the impugned order dated 03.12.2022.

[3] Learned counsel for the petitioner submits that while declaring the petitioner as proclaimed person, the mandatory compliance of Section 82 Cr.P.C. was not made as the proclamation was never read over in public

place by the executant police officer, thereby violating Section 82 (2) (i) (a) of the Code of Criminal Procedure, 1973 and also for 03.12.2022, there was no proclamation made by the Court concerned.

[4] I have heard learned counsel for the petitioners as well as gone through the paper-book and find substance in submissions made on behalf of the petitioner.

[5] In the present case, a perusal of the order dated 06.10.2022 (Annexure P-2) passed by the learned JMIC-3, Jalandhar, shows that the proclamation under Section 82 Cr.P.C. was issued for 10.11.2022 being the date of appearance. A perusal of the statement dated 10.11.2022 (at page-27 of the paper-book) made by the executants police officer, namely, Rajiv Kumar, ASI, 675, P.S. Maqsudan, District Jalandhar, shows that the proclamation was never read over in a public place, thereby violating Section 82 (2) (i) (a) of the Code of Criminal Procedure, 1973. Moreover, the proclamation was though effected for 10.11.2022, however, by the said date, 30 days period had not elapsed, therefore, the proceedings were adjourned by the trial Court for 03.12.2022 for awaiting appearance of accused-petitioner. However, for the said date i.e. 03.12.2022, there was no proclamation ever ordered by the Court concerned and thus, the proceedings resulting into declaration of the petitioner as proclaimed person vide order dated 03.12.2022 is in violation of the provision of Section 82 of Cr.P.C.

[6] In the given facts, the proclamation even having not been read publically, resulting into non-compliance of Section 82 (2) (i) (a) of Cr.P.C., therefore, the order dated 03.12.2022 (P-5) passed by the learned Judicial Magistrate Ist Class-3, Jalandhar, is set aside; the petitioner is directed to

surrender himself before the trial Court / Illaqa Magistrate concerned within a period 15 days from today and will furnish fresh bail / surety bonds, which shall be accepted by the trial Court to its satisfaction.

[7] **Disposed off** accordingly.

[8] In the humble opinion of this Court, the present petition is disposed off without issuance of any notice to the respondent(s)-complainant as it may further delay the cause of complainant, besides putting them to unnecessarily litigation.

[9] The aforesaid order shall, however, be subject to payment of costs of Rs. 25,000/- to be paid by the petitioners to respondent-complainant with a period of one week from the date of receipt of certified copy of this order.

April 08, 2024
'dk kamra'

(HARKESH MANUJA)
JUDGE

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