

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

274

CRM-M-15294-2019

Date of Decision : November 13, 2024

SUKHCHAIN SINGH

-PETITIONER

V/S

STATE OF PUNJAB

-RESPONDENT

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Abhaysher Singh, Advocate for
Mr. K.S. Sidhu, Advocate
for the petitioner.

Mr. Raghav Garg, A.A.G, Punjab.

KULDEEP TIWARI, J. (ORAL)

1. The dual reliefs yearned through institution of the instant petition under Section 482 of the Cr.P.C. appertain to quashing of the:- (i) Complaint No. COMI/92/2014 (Annexure P-1), titled as “Bachittar Singh Vs. Harjinder Singh”, along with the summoning order dated 30.01.2017 (Annexure P-2); and (ii) Order dated 04.09.2017 (Annexure P-3), whereby, the petitioner has been declared a “Proclaimed Person” in the complaint (supra).

2. At the outset itself, the learned counsel for the petitioner submits that, on account of the supervening events vis-a-vis the matter becoming compromised between the parties, the complaint (supra) has already been withdrawn, therefore, the primary relief qua quashing of the complaint (supra) becomes infructuous and the instant petition survives only qua the second relief of quashing the Order dated 04.09.2017

(Annexure P-3).

3. In his beseeching the relief (supra), the principal argument composed by the learned counsel for the petitioner, is that, since the mandate enclosed in Section 82 of the Cr.P.C. did not become meticulously complied with by the learned Magistrate concerned, inasmuch as, the requisite period of 30 days was not provided to the petitioner to cause appearance in pursuance to the proclamation issued against him, therefore, the learned Magistrate erred in drawing the impugned order dated 04.09.2017 (Annexure P-3).

4. This Court has heard the submissions made by the learned counsel for the petitioner and also perused the record.

5. What emanates from a studied survey of the record, is that, initially the learned Magistrate concerned, through drawing an order on 17.07.2017 in the complaint (supra), issued proclamation against the petitioner for 17.08.2017, however, the said proclamation did not become issued. Consequently, the learned Magistrate concerned drew the order dated 17.08.2017, thereby issuing proclamation against the petitioner for 02.09.2017, whereupon, the latter was ultimately declared a “Proclaimed Person” vide the impugned order dated 04.09.2017 (Annexure P-3). Therefore, it is evident that, consequent upon issuance of second proclamation on 17.08.2017, the requisite period of 30 days was not provided to the petitioner to cause appearance. This fact is not disputed by the learned State counsel also.

6. In summa, when the learned Magistrate concerned has failed

to make meticulous compliance of the mandate enclosed in Section 82 of the Cr.P.C., therefore, the impugned order dated 04.09.2017 (Annexure P-3) warrants interference and the same is accordingly set aside.

7. The instant petition is **allowed** in the above terms.

November 13, 2024
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No