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

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Date of Decision : November 20, 2024

KARTAR SINGH THROUGH HIS SPA**-PETITIONER****V/S****STATE OF PUNJAB****-RESPONDENT****CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Mr. J.S. Grewal, Advocate
for the petitioner.

Mr. Pardeep Bajaj, D.A.G., Punjab.

KULDEEP TIWARI, J. (ORAL)

1. Through the instant petition, the petitioner strives for securing an affirmative order from this Court, thus quashing the order dated 27.01.2016 (Annexure P-7), wherethrough, he has been declared a “Proclaimed Offender” by the learned Judicial Magistrate 1st Class, Malerkotla, in Complaint No. 38 of 03.09.2010 (Annexure P-2).

2. 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, requisite efforts never became made to cause valid service upon the petitioner, who has been, even prior to drawing of the summoning order dated 11.05.2015 in the complaint (supra), residing abroad (Italy), therefore, for want of valid service and for want of proper procedure being adopted, the learned

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Magistrate erred in initiating proclamation proceedings against the petitioner. He submits that, the petitioner was summoned in the complaint (supra) vide order dated 11.05.2015, whereas, the petitioner went to Italy much prior thereto, i.e. on 19.02.2015. To buttress this submission, he places reliances upon Annexure P-9, wherein becomes enclosed the petitioner's passport copy containing his travel history. He also places reliance upon bailiffs' report to lend vigour to his submission that petitioner had already left India prior to issuance of the summoning order.

3. Finally, the learned counsel for the petitioner submits that, on account of the impugned proclamation order (supra) becoming passed in utter disdain to the mandate carried in Section 82 of the Cr.P.C., inasmuch as, proclamation was issued at the old address of the petitioner and no efforts were made to serve the petitioner through the embassy concerned, therefore, the impugned proclamation order is liable to be set aside.

4. This Court has heard the submissions made by the learned counsel for the petitioner and the factual submissions made by him are not disputed by the learned State counsel.

5. In summa, when the learned Magistrate concerned has evidently failed to adopt the requisite procedure for ensuring valid service becoming caused upon the petitioner at his foreign abode, rather declared the petitioner a "Proclaimed Offender" on the basis of service caused at his abode in India, therefore, the impugned proclamation order dated 27.01.2016 (Annexure P-7) warrants interference, on account of its being tainted with the vice of non-compliance of the mandate enclosed in Section 82 of the Cr.P.C. Gainful reference in this regard can be made to the verdict



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rendered by a Co-ordinate Bench of this Court in “*Gurmukh Singh Vs. State of Punjab*”, *Law Finder Doc Id # 1962696*.

6. Consequently, the instant petition is **allowed** and the impugned order dated 27.01.2016 (Annexure P-7) is hereby set aside.

November 20, 2024
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(KULDEEP TIWARI)
JUDGE

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