

VIKRAM ALIAS VIKRAMJEET

.....Petitioner

Versus

STATE OF HARYANA AND ANR.

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. G.S. Kaura, Advocate and
Ms. Shubh Karman Kaur Kaura, Advocate for the petitioner.

HARKESH MANUJA, J. (ORAL)

By way of present petition filed under Section 482 CrPC, prayer has been made for setting aside the order dated 19.07.2022 passed by the Court of learned Judicial Magistrate First Class, Sirsa whereby petitioner was declared as proclaimed person.

2. Briefly stating, a complaint bearing No. NACT/511/2018 titled as ‘Vipin Kumar Vs. Vikram’ registered under Section 138 of Negotiable Instruments Act, 1881 came to be filed against the petitioner by respondent No.2 wherein, the petitioner was summoned vide order dated 12.11.2018. Followed by his non-appearance, the petitioner was declared as proclaimed person vide order dated 19.07.2022.

3. Impugning the aforesaid order, learned counsel for the petitioner submits that the proceedings under Section 82 of CrPC while declaring the petitioner as proclaimed person was not carried out in consonance with the mandatory procedure and thus, the impugned order was liable to be set aside.

4. On the other hand, learned counsel representing respondent No.1 vehemently opposes the prayer made at the instance of petitioner while submitting that the whole idea of non-appearance of

the petitioner before the trial Court was to delay the proceedings and the petitioner even achieved his purpose of evading the process of law for a period of almost 5 ½ years and thus, the impugned order warrants no interference.

5. At this stage, notice upon respondent No.2 may not be required as the issue regarding declaration of petitioner as proclaimed person primarily relates to the petitioner and State. Moreover, any issuance of notice to respondent No.2 may unnecessarily burden him with totally uncalled for litigation cost.

6. I have heard learned counsel for the parties and gone through the paper-book. I find substance in the submissions made by learned counsel for the petitioner.

7. In the present case, proclamation under Section 82 of CrPC against the petitioner was issued on 12.04.2022 for 19.07.2022. In pursuance thereof, the proclamation was effected on 01.05.2022. In his report (Annexure P-6, Page 42), the executant-Police Officer states that the petitioner had been disowned by his family members who were not having any concern with him. In the given facts and circumstances, rather than proceeding against the petitioner by declaring him as proclaimed person on account of his non-appearance, the trial Court could have adopted the measures laid down under Section 82(2)(i) of CrPC for directing a copy of proclamation to be published in some daily newspaper being circulated in the area so as to make the petitioner aware of proceedings carried out against him and could not have solely relied upon the affixation of the proclamation in the Court

premises or upon the house of the petitioner or even the same having been read publically from Mandir of the Village.

8. In the present facts and circumstances wherein the petitioner stood disowned by his family members who even as per the report of Executant-Police Officer were having no connection with him, the trial Court having failed to follow the option contemplated under Section 82(2)(i) of CrPC, the impugned order dated 19.07.2022, declaring the petitioner as proclaimed person cannot be sustained and is thus set aside.

9. Resultantly, the present petition is allowed subject to deposit of costs of Rs.15,000/- as costs in favour of complainant. The petitioner shall surrender himself before the trial Court within a period of 7 days from today and furnish his bail bonds/surety bonds subject to satisfaction of the Court concerned. The aforementioned costs shall be deposited by the petitioner at the time of furnishing his bail bonds which shall be transmitted to the complainant by the trial Court.

10. Considering the fact that the complaint in hand is pending adjudication for the past almost 5 ½ years, the trial court is requested to conclude the proceedings as early as possible, preferably within a period of six months.

16.04.2024

Tejwinder

(HARKESH MANUJA)
JUDGE

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