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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-20971-2024
Date of decision: 29.04.2024

Pushpender Kumar ...Petitioner

Versus

Union Territory of Chandigarh and Another ...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Shantanu Bansal, Advocate for the petitioner.

KARAMJIT SINGH, J. (ORAL)

1. The petitioner seeks setting aside of order dated 29.02.2024 Annexure P-4 passed by the Court of Ld. Judicial Magistrate Ist Class vide which the petitioner was declared proclaimed offender in criminal complaint NACT-1812/2019 titled as Deepinder Sarao Vs. Pushpender Kumar.
2. The counsel for the petitioner while assailing the impugned order Annexure P-4 submits that the same was not passed in consonance with the mandate of Section 82 Cr.P.C, inasmuch a clear period of 30 days with effect from the date when proclamation was effected was not given, to the petitioner for causing appearance in the Court concerned. In this regard, counsel for the petitioner referred to order dated 06.01.2024 Annexure P-2 whereby proclamation of the petitioner under Section 82 Cr.P.C. was issued with direction to him to appear before the Court concerned on or before 19.02.2024. The counsel for the petitioner while referring to order dated 19.02.2024 Annexure P-3 passed by the learned trial Court, submits that the proclamation was effected on 27.01.2024 and as such, clear 30 days period was not provided for

appearance of the petitioner from the date when proclamation was effected. The counsel for the petitioner further submits that in view of the above, the impugned order being illegal, is not sustainable.

3. Notice of motion.

4. Mr. Rajiv Vij, Addl. P.P., U.T. Chandigarh accepts notice on behalf of the U.T. Chandigarh and submits that there is no illegality in the impugned order as the same was passed by the learned trial Court in accordance with law.

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

6. Keeping in view the factual position, as is already brought to the notice of the Court by the counsel for the petitioner, the proclamation of petitioner was issued vide order dated 06.01.2024 Annexure P-2 with direction to the petitioner to appear before the Court concerned on 19.02.2024. As per order dated 19.02.2024 Annexure P-3, it is evident that proclamation of petitioner was effected on 27.01.2024 with direction to appear before the Court concerned on 19.02.2024. Thus, making it apparent that a clear period of 30 days with effect from the date when proclamation was actually effected was not given to the petitioner up to the date fixed for his appearance i.e. 19.02.2024. Thus, bearing in mind the law laid down in ***Ashok Kumar Vs. State of Haryana 2013 (4) RCR (Criminal) 550***, the impugned order is not sustainable in the eyes of law and is hereby set aside. The petition is accepted accordingly.

29.04.2024

Yogesh

Whether speaking/reasoned:-
Whether reportable:-

(KARAMJIT SINGH)
JUDGE

Yes/No
Yes/No