

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

CRM-M-24817-2022

Date of Decision:-01.03.2024

Salil Narayan.

.....Petitioner.

Versus

State of Punjab.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Chirag Wadhwa, Advocate for the Petitioner.

Mr. Mohit Saroha, Assistant Advocate General, Punjab.

JASJIT SINGH BEDI, J. (ORAL)

The prayer in the petition under Section 482 Cr.PC is for quashing of the order dated 1.5.2017 (Annexure P-1) passed by the SDJM, Malout, Sri Muktsar Sahib, FIR No.121 dated 29.7.2017 under Section 174-A IPC P.S. City Malout, District Sri Muktsar Sahib (Annexure P-2) registered in compliance of the order Annexure P-1 whereby the petitioner has been declared a proclaimed person and all subsequent proceedings arising therefrom.

2. The brief facts of the case are that FIR No.74 dated 8.5.2020 under Sections 420, 465, 467, 468, 471, 120-B IPC P.S. City Malout, Sri Muktsar Sahib came to be registered against the petitioner and others.

3. The petitioner was granted bail and the report under Section 173(2) Cr.PC was submitted on 17.10.2023 . As the petitioner started absents himself from the proceedings his presence was ordered to be

procured through proclamation warrants dated 8.3.2017 for 06.04.2017. A copy of the said order is attached as Annexure P-5.

In furtherance of the aforementioned order, a proclamation was issued on 16.03.2017 to appear on 6.4.2017.

4. Thereafter on 23.03.2017 the statement of the serving constable was recorded to the following effect:-

“ Submitted that I have reached the given address of Salil Narayan son of Shree Narayan, Kothi No.1642, Sector 9, Karnal after reaching Police Station Karnal and taking along with me a police official. On reaching the house Salil Narayan was not there but his wife Shiksha was there who told us that her husband is not at home and that my father in law has expired and he has gone to Jharkhand. I have pasted one copy of the Proclamation on his gate and one copy of the proclamation on the turn of the street and one copy of the proclamation on the notice board of the Court has been put and the original copy is being present to you for further action.”

5. Thereafter the statement of the serving constable i.e. Constable Parminder Singh was recorded in the court of JMIC, Malout during the PO proceedings which reads as under:-

“ Stated that on 23.03.2017, as per the proceedings under Section 82 Cr.PC., I along with Constable Gursewak Singh and police officials Karnal Chowki, Sector 9, went to the house of accused Salil Narayan son of Shri Narayan resident of Bharti Printing Press Building Mittapur, Patna, Bihar now resident of Kothi No1642, Sector 9, Rajivpuram, Karnal, but the accused was not present in the house. So, as per the orders of Hon’ble Court, the first photo copy of the proclamation warrants was affixed with the main gate of the house of the accused and 2nd photocopy of the proclamation

warrants was affixed at the middle of the Colony of the Karnal and third photocopy of the proclamation warrants was affixed at the notice board of the Hon'ble Court, I have tendered the original proclamation warrants Ex.PA and my report Ex.PB, photocopy of rapat dated 23.01.2017 Ex.PC.”.

The copy of the statement is attached as Annexure P-5.

6. As the statutory period of one month had not elapsed on 6.4.2017 the case was adjourned to 1.5.2017 vide order Annexure P-6.

7. On 01.05.2017, the petitioner was declared a proclaimed person vide order Annexure P-1.

8. In pursuance to the aforementioned order FIR No.121 dated 9.7.2017 under Section 174-A IPC P.S. City Malout, District Sri Muktsar Sahib came to be registered and is attached as Annexure P-2 to the present petition.

9. The aforementioned order dated 1.5.2017 (Annexure P-1) and the consequent FIR No.121 dated 9.7.2017 under Section 174-A IPC P.S. City Malout, District Sri Muktsar Sahib (Annexure P-2) are under challenge in the present petition.

10. The Counsel for the petitioner contends that proclamation warrants were issued on 16.03.2017 with the directions to the petitioner to appear on 6.4.2017. Thus only a period of 18 days had been granted to the petitioner which was against the mandatory provisions of Section 82 Cr.PC as per which 30 days clear period was to be given for appearance after issuance of proclamation. There was nothing to suggest that the serving constable had served the proclamation on the premises of the petitioner and the statement of the said constable was to the effect that the proclamation had been affixed in the middle of the colony of Karnal. The statement did not specify as to in which colony the copy of the proclamation had been

pasted. Even otherwise the petitioner was ailing because of which he was unable to appear before the Court as was evident from his medical treatment record attached as Annexure P-3.

5. The Counsel for the State has filed a reply by way of affidavit dated 17.10.2023 of Mr. Fateh Singh Brar, PPS, Deputy Supdt. of Police Sub Division Malout, District Sri Muktsar Sahib in court today which is taken on record. While referring to the said reply, he contends that the petitioner had been granted bail and had appeared before the Court and it was only later that he absented himself. Therefore, he was aware of the proceedings against him. Further, from the statement of the serving constable it was apparent that he had gone to the house of the petitioner where the wife of the petitioner had informed him that her husband was not at home and had gone to Jharkhand. Therefore, notice was deemed to have been served upon him. Further there was nothing to suggest in the medical record (Annexure P-3) to the effect that the petitioner was unable to appear in Court on account of illness. He, therefore, contends that there was no merit in the present petition and the same was liable to be dismissed.

6. I have heard learned Counsel for the parties.

7. A perusal of the record would reveal that the petitioner was initially granted bail. It was only later that he absented himself. Thus it is apparent that he is aware of the proceedings against him. Further as per the statement of the serving constable, on 23.03.2017, he along with certain other police officials had gone to the house of the petitioner Salil Narayan where his wife Shiksha informed the police party that her husband had gone to Jharkhand on account of the death of his father. Thus the notice is deemed to have been served upon the petitioner. From the time that the proclamation was issued on 16.03.2017 till the time when the order

declaring the petitioner a proclaimed person was passed on 1.5.2017, more than 30 days had elapsed. As regards the illness of the petitioner, it may be mentioned here that the record in no manner shows that the petitioner was ailing to such an extent that he could not appear before the Court concerned. Therefore, it is apparent that the clear attempt of the petitioner was to evade the proceedings emanating out the FIR No.74 dated 8.5.2010 under Section 420, 465, 467, 468, 471, 120-B IPC P.S. City Malout, Sri Muktsar Sahib.

8. In view of the above, I find no merit in the present petition and the same stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

March 01, 2024
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No