

2024:PHHC:062141



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

**CRM-M-22331-2024
Decided on:-06.05.2024**

Shisha SinghPetitioner..

vs.

Hardeep SinghRespondent.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Janak Singh Bhinder, Advocate for the petitioner.

HARKESH MANUJA J. (Oral)

1. By way of present petition filed under Section 482 of the Code of Criminal Procedure, 1973, challenge has been laid to an order dated 19.12.2023, whereby the petitioner was declared as proclaimed person.

2. Having been summoned vide order dated 13.07.2023 passed by the Court of Sub-Judicial Magistrate, Samana, in a complaint filed at the instance of respondent, the petitioner failed to appear, resulting into issuance of proclamation under Section 82 Cr.P.C. against him vide order dated 20.10.2023 for 22.11.2023 being the date of appearance. The proclamation was effected on 14.11.2023 and since the statutory period of 30 days did not expire by 22.11.2023, the hearing was adjourned for 19.12.2023, when on account of his non-appearance, the petitioner was declared as proclaimed person.

3. Impugning the aforesaid order, learned counsel for the petitioner submits that the proceedings under Section 82 Cr.P.C. were not

concluded against him in terms of statutory mandate and thus, the impugned order deserves to be set aside.

4. Though, in the present case, the petitioner was summoned on a complaint made by respondent, however, at this stage, the presence of respondent may not be necessary, as the matter merely relates to adjudication upon an order whereby the petitioner was declared as proclaimed person. Even otherwise, issuance of notice, at this stage to respondent for opposing the proceedings under Section 82 Cr.P.C. would cause unnecessary financial burden upon him and as such learned counsel representing State has been requested to assist in the matter.

5. Mr. Athar Ahmed, DAG, Punjab while opposing the prayer made in the present petition submits that despite having knowledge about the pendency of the proceedings, petitioner chose not to present himself before the trial Court and thus, rightly declared as proclaimed person, therefore, impugned order warrants no interference.

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

7. Perusal of paper book shows that proclamation under Section 82 Cr.P.C. was ordered against the petitioner on 20.10.2023 for 22.11.2023. The proclamation was effected on 14.11.2023 and as the statutory period of 30 days, which was required to be provided to the petitioner in pursuance to the aforementioned proclamation did not expire by 22.11.2023, the matter was adjourned to 19.12.2023, when on account of his non-appearance, the petitioner was declared as proclaimed person. In the present case, for 19.12.2023 no proclamation under Section 82 Cr.P.C. was either ordered or

effected and as such declaration of the petitioner as proclaimed person on 19.12.2023 was wholly uncalled for. Moreover, the petitioner is even willing to surrender before the trial Court and join the proceedings, besides it, to serve public cause, learned counsel for the petitioner, on instructions submits that the petitioner would provide one (01) Operation Bed to the Civil Hospital, Samana.

8. In view of the above, the present petition is allowed and order dated 19.12.2023 is set aside. The petitioner is directed to appear before the trial Court within a period of 15 days from today and furnish his adequate bail/surety bonds to its satisfaction.

9. The aforesaid order is subject to providing one (01) Operation Bed to the Civil Hospital, Samana within a period of 15 days as volunteered by the petitioner against due receipt issued by the concerned Civil Surgeon, who shall prepare an inventory in this regard for its regular inspection by the Director concerned. A copy of the receipt shall also be sent to the office of Advocate General, Punjab at the earliest for maintaining records in this regard. The petitioner is further directed to furnish the receipt of aforesaid equipment duly issued by the concerned Civil Surgeon, at the time of submissions of his bail/surety bonds before the Trial Court/Duty Magistrate.

06.05.2024
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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/ No