



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M No. 24795 of 2024 (O&M)
Date of Decision: 28.05.2024

Randev Saini alias Sabi

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. S.K. Choudhary, Advocate
for the petitioner.

HARKESH MANUJA, J. (ORAL)

The petitioner, by way of present petition filed under Section 482 Cr.P.C., seeks quashing of the order dated 22.12.2023 (Annexure P-3) passed by the learned Judicial Magistrate Ist Class, Pathankot, whereby he was declared as Proclaimed Person in case FIR No. 0130, dated 08.10.2021, under Sections 324, 323, 148 & 149 of IPC (Section 326 of IPC added later on), registered at Police Station Sadar Pathankot, alongwith all consequential proceedings arising therefrom.

[2] In the present case, having been implicated as an accused in FIR (supra), the petitioner failed to appear before the trial Court and thus, he was declared as proclaimed person vide impugned order dated 22.12.2023 (P-3).

[3] Learned counsel for the petitioner submits that proclamation under Section 82 Cr.P.C. was ordered against the petitioner on 13.10.2023 for 22.12.2023, which was carried out on 28.10.2023 through ASI Balwinder Kaur and on account of non-appearance, he was declared proclaimed person

vide order dated 22.12.2023; thus, while declaring the petitioner as proclaimed person, the mandatory compliance of Section 82 Cr.P.C. was not made as the proclamation was never read over in public place by the executant police officer, thereby violating Section 82 (2) (i) (a) of the Code of Criminal Procedure, 1973.

[4] Notice of motion.

[5] Mr. Athar Ahmad, Deputy Advocate General, Punjab, accepts notice and vehemently opposes the prayer made in the petition while submitting that despite having knowledge about the pendency of the proceedings, the petitioner chose not to appear before the trial Court and thus, the proceedings initiated against him, warrants no interference.

[6] I have heard learned counsel for the petitioners as well as gone through the paper-book and find substance in submissions made on behalf of the petitioner.

[7] In the present case, the proclamation under Section 82 Cr.P.C. was effected by ASI Balwinder Singh on 28.10.2023, whose statement is reproduced hereunder:-

“ Respected Sir,

It is requested that accused Randev Saini alias Sabi Son of Jaswant Singh R/o Mirzapur, a notice was issued in his name by your court through under Section 82 Cr.P.C., which was marked by the SHO on 16.10.2023 in my name. Today on 28.10.2023, when I reached at the address given by the accused and enquired about him wherein, he was not found at home. After which one copy of notice was pasted outside the wall of the accused and called out. Second copy was pasted in the public place of the village. Third copy was pasted on the notice board of the Hon'ble Court. Fourth copy is presented before you after giving my report. There is

no hope of finding of the accused. Please pass an appropriate order.

The Report is presented.

*Balwinder Singh, ASI
Station Sadar, Pathankot.
28.10.2023 ”*

A perusal of the aforesaid statement made by the executant police officer, namely, ASI Balwinder Singh, shows that the proclamation was never read over in a public place, thereby violating Section 82 (2) (i) (a) of the Code of Criminal Procedure, 1973, hence, the impugned order declaring the petitioner as proclaimed person is, unsustainable in the eyes of law. Moreover, as per learned counsel for the petitioner, the petitioner appeared before the trial Court in terms of order dated 20.05.2024.

[8] In the given facts, the proclamation even having not been read publically, resulting into non-compliance of Section 82 (2) (i) (a) of Cr.P.C., therefore, the order dated 22.12.2023 (P-3) passed by the learned Judicial Magistrate Ist Class, Pathankot, is set aside.

[9] **Disposed off** accordingly.

May 28, 2024
'dk kamra'

(HARKESH MANUJA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No