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126 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-24393 of 2024(O&M)

Date of Decision: 16.05.2024

Vikram Singh

...Petitioner

Versus

State of Punjab & Anr.

...Respondents

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Rai Singh Chauhan, Advocate
For the petitioner with
Ms. Deepika Chauhan, Advocate and
Mr. Rohit Sapehiya, Advocate
For the petitioner.

Mr. J.S. Dhaliwal, AAG Punjab.

KARAMJIT SINGH, J.

1. The present petition has been filed by petitioner seeking quashing of order dated 27.02.2023 (Annexure P-3) passed by the Court of Additional Chief Judicial Magistrate, Gurdaspur vide which the petitioner was declared as proclaimed person in criminal case having FIR No. 79 dated 03.11.2017, under Sections 295, 324, 323, 506, 148 and 149 IPC registered at Police Station Tibber, District Gurdaspur.

2. The counsel for the petitioner submits that after the registration of the FIR, the petitioner was granted anticipatory bail by the Court of Additional Sessions Judge, Gurdaspur vide order dated 19.12.2017. The petitioner cooperated with the police during investigation of the case. However, the petitioner was not informed by the Court or the police officials with regard to filing of the challan against him and finally the petitioner was

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declared as proclaimed person vide order Annexure P-3 by the Court concerned without following the proper procedure. It is further submitted that the impugned order was passed in contravention of the mandatory provisions of Section 82 Cr.P.C. as clear 30 days period was not given to the petitioner to appear before the Court concerned with effect from the date of publication of proclamation. The counsel for the petitioner further submits that it being so the impugned order Annexure P-3 is not sustainable and deserves to be quashed. In this regard counsel for the petitioner has placed reliance upon decision of this Court in **Ashok Kumar Vs. State of Haryana & Anr. 2013(4) RCR(Crl.) 550.**

3. Notice of motion.

4. Mr. J. S. Dhaliwal, AAG Punjab accepts notice on behalf of respondent State and submits that the trial Court issued bailable and non-bailable warrants of the petitioner but he failed to respond and thereafter proclamation proceedings were initiated and on conclusion of the same the petitioner was rightly declared as proclaimed person by the trial Court vide order Annexure P-3.

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

6. From a perusal of the zimni orders as reproduced in the present petition, it appears that the proclamation of the petitioner under Section 82 Cr.P.C. was issued for 11.01.2023 by the Court concerned. As per order dated 11.01.2023, the proclamation against the present petitioner was received back after due execution but as the prescribed period of 30 days had not expired, the case was adjourned to 13.02.2023 for awaiting presence of

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the petitioner. However, while passing the said order dated 11.01.2023, no intimation/ notice of the same was given to the present petitioner to inform him that now the date fixed for his presence is 13.02.023. It also appears that on 13.02.023 nothing was recorded by the Court concerned with regard to presence of the present petitioner and finally impugned order was passed by the concerned Court on 27.02.2023 whereby the petitioner was declared as proclaimed person. Thus, in the present case the procedure prescribed under Section 82 Cr.P.C. has not been complied with and in fact clear period of 30 days as mandated under Section 82 Cr.P.C. has not been afforded to the petitioner in order to appear before the Court concerned with effect from the date on which proclamation was published against the petitioner. Thus, in the light of ratio laid down by this Court in Ashok Kumar's case (supra) the impugned order being illegal deserves to be set aside.

5. In light of the above, without expressing any opinion on the merits of the case, the present petition is allowed and impugned order (Annexure P-3) is set aside.

16.05.2024

Jiten

**(KARAMJIT SINGH)
JUDGE****Whether speaking/reasoned : Yes/No****Whether reportable : Yes/No**