



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M No. 26569 of 2024 (O&M)
Date of Decision: 24.05.2024

Deepak Kumar Mittal

..... Petitioner

Versus

State of Punjab

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Ms. Jasneet Mehra, 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 29.07.2022 (Annexure P-4) passed by the learned Judicial Magistrate Ist Class, Dera Bassi, whereby he was declared as Proclaimed Person in case FIR No. 0259, dated 10.07.2018, under Sections 406, 420 & 120 of IPC, registered at Police Station Zirakpur, District SAS Nagar (Mohali).

[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 proclaimed person vide impugned order dated 29.07.2022 (P-4).

[3] Learned counsel for the petitioner submits that 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 HC Rajinder Singh, No. 1184/SAS Nagar, P.S. Zirakpur, whose statement is re-produced hereunder:-

“ Stated that in above said case proclamation of accused Deepak Mittal was given to me. On visiting the place of the accused he was not found at his place. Thus, one copy of the proclamation was pasted on the door of the house of the given address on 24.06.2022, one copy was pasted in public place in the above said area, one copy pasted at Bus Stand and a copy was pasted on the notice board of Court. Proclamation of accused is Ex. P1 and my report is Ex. P2.”

A perusal of the aforesaid statement made by the executant police officer, namely, HC Rajinder 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, declaring the petitioner as proclaimed person is, thus, unsustainable in the eyes of law.

[8] Moreover, learned counsel for the petitioner, on instructions, submits that the petitioner volunteers to serve public cause by providing the medical equipment to Community Health Centre, Dhakoli, Zirakpur (Punjab).

[9] 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 29.07.2022 (P-4) passed by the learned Judicial Magistrate Ist Class, Dera Bassi, is set aside; the petitioner is directed to surrender himself before the trial Court / Illaqa Magistrate concerned within a period two weeks from today and furnish fresh bail / surety bonds, which shall be accepted by the trial Court to its satisfaction.

[10] **Disposed off** accordingly.

[11] The aforesaid order shall, however, be subject to providing medical equipment(s) viz. one stretcher and one wheel chair to the Community Health Centre, Dhakoli, Zirakpur (Punjab), amounting to Rs.15,000/-, within a period of two weeks from the date of receipt of certified copy of this order, 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.

May 24, 2024
'dk kamra'

(HARKESH MANUJA)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>