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

CRM-M-27421-2024
Date of decision: 29.05.2024

Nirmal Singh @ Nimma

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Kanwaljeet Singh, Advocate for the petitioner.

Mr. J.S. Dhaliwal, AAG, Punjab.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by petitioner seeking quashing of order dated 16.03.2012 (Annexure P-9) passed by the Court of Additional Sessions Judge, Hoshiarpur vide which the petitioner was declared as proclaimed offender in criminal case having FIR No. 209 dated 17.12.2005 under Section 457, 380, 342, 34 IPC (Sections 392, 395 IPC and Section 25 of Arms Act added lateron), registered at Police Station Hariana, District Hoshiarpur.

2. The counsel for the petitioner submits that the petitioner was falsely implicated in the aforesaid criminal case and he was not aware about the pendency of the same in any Court. It is further submitted that the impugned order was passed in violation 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 as is evident from Annexure P-6 to Annexure P-9. The counsel for the petitioner further submits that it being so the impugned order Annexure P-9 is not sustainable and deserves to be set aside. 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**. The counsel for the petitioner further submits that otherwise also the co-accused who faced trial were acquitted by the trial Court vide its judgment dated 24.07.2013 (Annexure P-10). It is further submitted that petitioner is ready to join the proceedings before the trial Court at the earliest.

3. On the other hand, the State counsel while resisting the present petition submits that the petitioner was fully aware about the pendency of the aforesaid criminal case and intentionally avoided his service and was rightly declared as proclaimed offender by the learned trial Court. It is further submitted that there is no illegality or perversity in the impugned order (Annexure P-9).

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

5. From a perusal of the documents which are referred by counsel for the petitioner, it appears that the learned trial Court issued proclamation of the petitioner under Section 82 Cr.P.C. for 17.01.2012 vide order dated 08.12.2011 (Annexure P-6). From the perusal of Annexure P-9 it is evident that the said proclamation was effected on 12.01.2012 against the petitioner and the date given for his appearance before the Court concerned was 17.01.2012. Thus, in the present case the procedure prescribed under



Section 82 Cr.P.C. has not been adhered 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 of publication of proclamation against him. Thus, in the light of law laid down by this Court in Ashok Kumar’s case (supra) the impugned order being illegal deserves to be set aside. Admittedly, impugned order was passed more than 12 years back and it being so the petitioner deserves to be burdened with costs.

6. 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-9) is set aside subject to costs of Rs.5000/- to be deposited by the petitioner within a period of next two weeks from today, with the District Legal Services Authority concerned, failing which the present petition should be deemed to have been dismissed.

29.05.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

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