

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

237

CRM-M-27778-2023

Date of decision :01.03.2024

Vinod Saha @ Shrikant Prasad

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present : Mr. Sanyam Khetarpal, Advocate
for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana.

HARKESH MANUJA, J. (ORAL)

1. By way of present petition filed under Section 482 Cr.P.C., prayer has been made for setting aside the order dated 07.08.2000 passed by the Judicial Magistrate 1st Class Faridabad, whereby the petitioner was declared as proclaimed offender.
2. Having been implicated in FIR No. 299 Dated 01.11.1999 under Section 363, 366, 102-B and 506 of IPC registered at Police Station Mujessar, District Faridabad, the petitioner, on account of his non-appearance before the Court concerned was declared as proclaimed offender.
3. Impugning the same, learned counsel for the petitioner submits that the provisions of Section 82 Cr.P.C. are mandatory in nature. He further

submits that the proclamation was apparently effected on 03.08.2000 and the petitioner was declared as proclaimed offender on 07.08.2000. i.e. within a period less than 30 days from the date of effecting of proclamation and thus the same was unsustainable in law.

2. On the other hand, learned State counsel vehemently opposes the prayer stating that the petitioner was having knowledge about the proceedings pending against him and thus the impugned order warrants no interference.

3. 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.

4. Order dated 07.08.2000 vide which the petitioner was declared proclaimed offender read as under:-

“Proclamation under Section 82 Cr.P.C. against the accused Vinod received duly effected. Proclamation effected on 03.08.2007. Serving constable Ved Parkash No.118 P.S. Mujessar appeared. His statement also recorded. In view of the statement of the serving constable and his report Ex. PA, It has been proced to the satisfaction of the Court that the accused is escaping from his arrest and absconding from the custody of law. He is ordered to be declared proclaimed offender. Intimation be sent to all concern. Papers be consigned to the record room.”

5. A perusal of the record shows that the proclamation under Section 82 Cr.P.C. was effected against the petitioner on 03.08.2000 whereas he was declared proclaimed offender on 07.08.2000 i.e. within a

span of 5 days only. The mandate of Section 82 Cr.P.C. requires that for appearance, 30 days period should be granted to an individual, from the date of publication of proclamation against him. In the given facts, the same has not been complied with and therefore, the order dated 07.08.2000 being passed in violation of the mandate laid down under Section 82 Cr.P.C. is hereby quashed.

7. Accordingly, the present petition is allowed.

8. Though in the given facts the FIR in question arises out a dispute initiated at the instance of father who alleged that his daughter eloped with the petitioner, however, taking into account the affidavit 20.05.2023, given by the daughter namely Roopa, who is stated to be living a peaceful married life with the petitioner for more than 20 years, the petitioner is directed to surrender before the Court concerned within a period of 10 days from today and furnish his bail/surety bonds which shall be accepted subject to the satisfaction of concerned Court.

9. In the meanwhile, no coercive action shall be taken against him.

(HARKESH MANUJA)
JUDGE

01.03.2024
monika

Whether speaking/reasoned ? Yes/No
Whether Reportable ? Yes/No