

**CRM-M-38146-2024 (O&M)****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.****Sr. No.114****Case No.: CRM-M-38146-2024 (O&M)****Date of Decision : August 09, 2024**

Lakhwinder Singh @ Lakha Petitioner

vs.

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

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Present : Mr. Ramnish Puri, Advocate
for the petitioner.

Ms. Manjot Kaur, AAG, Punjab.

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GURBIR SINGH, J. :

1. Challenge in the present petition filed under Section 482 Cr.P.C. is to the order dated 25.07.2023 (Annexure P-2), passed by learned Additional Chief Judicial Magistrate, Jalandhar (for brevity – Trial Court), in FIR No.16 dated 29.01.2023, under Sections 302, 148, 149, 120-B IPC, registered at Police Station Sadar, Jalandhar (Annexure P-1), along with all consequential proceedings arising therefrom, whereby the petitioner was declared a Proclaimed Offender.

2. Learned counsel for the petitioner submits that challan was presented in the absence of the petitioner and other co-accused and their production warrants were issued. Ultimately, non-bailable warrant against the petitioner was issued vide order dated 29.04.2023. Without recording satisfaction, the learned Trial Court ordered to issue proclamation under

**CRM-M-38146-2024 (O&M)****-2-**

Section 82 Cr.P.C. for 30.05.2023 against the petitioner etc. The proclamation so issued was received back duly executed, which was effected on 29.05.2023. On 30.05.2023, when the case came up for hearing, in view of the fact that period of 30 days had not been elapsed, the learned Trial Court adjourned it for 11.07.2023, for awaiting appearance of the petitioner. Thereafter, on 25.07.2023, the petitioner was declared Proclaimed Offender. Learned counsel for the petitioner submits that the learned Trial Court was required to issue fresh proclamation since 30 days' period was required to be given to the accused to appear in the Court. So, the impugned order dated 25.07.2023 deserves to be set aside.

3. Notice of motion.

4. Pursuant to receipt of advance copy of the present petition, Ms. Manjot Kaur, AAG, Punjab is present to assist the Court. Learned State counsel has submitted that the petitioner was having knowledge of the pendency of the case against him. He intentionally avoided his appearance before the Court and he was rightly declared Proclaimed Offender. So, the present petition deserves dismissal.

5. I have heard learned counsel for the parties and perused the case file.

6. From the perusal of the order dated 29.04.2023, passed by learned Trial Court, it is very much clear that the proclamation was issued against the petitioner for 30.05.2023. On the said date, following order was passed :-

“Accused Raman and Mohinder produced by



jail authorities. They be again produced on 13.06.2023 and 27.06.2023 for roohnumai.

Proclamation issued against accused Lakhwinder Singh @ Lakha, Sanju, Surjit @ Jeeta, Manpreet @ Manne, Kamlesh, Sidhu @ Sagu received back duly executed which was duly effected on 29.05.2023. Statement of serving official has already been recorded regarding execution of proclamation. Period of 30 days has not been elapsed since the making of proclamation. Now case stands adjourned to 11.07.2023 for awaiting appearance for accused Lakhwinder, Sanju, Surjit @ Jeeta, Manpreet @ Manne, Kamlesh, Sidhu @ Sagu.”

7. The learned Trial Court was required to give 30 days' period to the petitioner to appear/surrender in the Court but here, the proclamation was effected on 29.05.2023 and then, on 30.05.2023, the case was adjourned for awaiting appearance of the accused and he was declared Proclaimed Offender on 25.07.2023. The procedure adopted by the learned Trial Court is totally wrong and was in clear violation of the provisions of Section 82 Cr.P.C. Reliance in this regard can be placed upon **Gurappa Gugal and others vs. State of Mysore** reported as **1969 CrLJ 826**, **Shokat Ali vs. State of Haryana** reported as **2020(2) RCR (Criminal) 339** and also on **Dilbagh Singh vs. State of Punjab (P&H)** reported as **2015 (8) RCR (Criminal) 166**.

8. In the light of above discussion, the impugned order dated 25.07.2023 (Annexure P-2), passed by learned Trial Court, whereby the petitioner has been declared Proclaimed Offender, is hereby set aside along with all consequential proceedings arising therefrom.
9. Pending applications, if any, shall stand disposed of along with this judgment.

August 09, 2024
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.