



CRM-M-39295-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.128

Case No. : CRM-M-39295-2024

Date of Decision : August 13, 2024

Balpreet Kaur Petitioner

vs.

State of Punjab and another Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

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Present : Mr. Prateek Pandit, Advocate
for the petitioner.

Ms. Manjot Kaur, AAG, Punjab.

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GURBIR SINGH, J. :

1. Prayer in the present petition filed under Section 482 Cr.P.C. is for quashing of the order dated 17.02.2024 (Annexure P-1), passed by learned Additional Chief Judicial Magistrate, Shaheed Bhagat Singh Nagar (Nawanshahr) (hereinafter referred to as – Trial Court), in a complaint case (Annexure P-2), under Sections 195, 195-A, 228 of the Punjab Municipal Act, 1911 (for brevity – the Act), whereby the petitioner has been declared as Proclaimed Person and complainant has been directed to file the list of property of petitioner for attachment of the same.

2. The case of the petitioner, in brief, is that a complaint case titled **Municipal Council, Rahon vs. Dilpreet Kaur**, as detailed above, was filed by respondent no.2 – Municipal Council, in which Dilpreet Kaur, arrayed as respondent, is aged 45 years and wife of Dilawar Singh. The



allegations in the said complaint are that Dilpreet Kaur, without obtaining permission from Municipal Council, raised construction of a residential house, within the Municipal limits of Rahon and thus, she was issued a notice under Section 195 of the Act. Since she failed to comply with the terms of the said notice, she was held responsible for committing offence punishable under Section 195-A of the Act. When complaint in question was filed by Municipal Council and Dilpreet Kaur was summoned, she could not be served by way of summons, bailable warrant and non-bailable warrant and ultimately, no option was left with the Court but to issue proclamation, which was issued on 06.09.2023 for 20.10.2023 and it was received back duly effected. Thereafter, case was adjourned for recording statement of serving official for 11.12.2023, on which date, he did not appear and case was adjourned to 04.01.2024. On 04.01.2024, however, the learned Trial Court observed that the aforesaid proclamation was not in accordance with law. Therefore, the same was ordered to be issued again for 12.01.2024, with further stipulation that the presence of Dilpreet Kaur be awaited for 14.02.2024. On 14.02.2024 again, it was observed that the proclamation, issued for the second time, received back duly effected. Therefore, notice to serving official was issued for 17.02.2024. It was on this date i.e. 17.02.2024 that the impugned order was passed and Dilpreet Kaur was declared proclaimed person since she failed to appear in the Court. The complainant was also directed to file list of her property for the purpose of attachment.

3. Learned counsel for the petitioner, at the outset, has submitted that



first of all, identity of the petitioner is in dispute because all the particulars, from which a person can be identified i.e. name, age and parentage, have been wrongly mentioned in the complaint. Secondly, in the complaint in question, a vague and incomplete address has been furnished i.e. ***“Resident of backside SBI Bank, Phillaur Road, Rahon, District Nawanshahr”***. On the basis of all these particulars, learned Trial Court has declared Dilpreet Kaur as proclaimed person, and not the petitioner. Apart from these facts, it has further been argued that all the summons, bailable warrant and non-bailable warrant, issued for procuring presence of the petitioner, were received back unserved for want of proper and fresh address as the house, at which repeated attempts for effecting service were made, was found locked. Therefore, it is clear that a person, whose correct address was not available, could neither have been served nor have refused the service of summons/warrant. This fact can be verified from the statement of serving official recorded on 12.01.2024.

4. Notice of motion.

5. Pursuant to receipt of advance copy of the present petition through the Registry, Ms. Manjot Kaur, AAG, Punjab is present to assist the Court. Learned State counsel has submitted that the petitioner was having full knowledge about pendency of the complaint case against her. Mere typing mistakes in the complaint cannot help the petitioner to deny her role in commission of offence. She has intentionally avoided her appearance before the Court and she was rightly declared proclaimed person. So, the present petition deserves dismissal.

6. I have heard learned counsel for the parties and perused the case file.
7. Vide order dated 04.01.2024, the petitioner was ordered to be summoned through fresh proclamation for 12.01.2024 and presence of Dilpreet Kaur was ordered to be awaited for 14.02.2024. The same was received back duly effected and statement of serving official was recorded on 17.02.2024. On the said date, the petitioner was declared as Proclaimed Person. The petitioner has placed on file a copy of her PAN Card. The petitioner is Balpreet Kaur, daughter of Dalawar Singh. So, neither name of the petitioner nor her status has been mentioned correctly and properly in the original complaint. Even address of the petitioner is also incomplete. Issuing proclamation against wrong person is illegal. There was no occasion for the petitioner to appear in the Court in pursuance to proclamation issued in the case. In these circumstances, it cannot be said that the petitioner has been duly served through proclamation.
8. Keeping in view the peculiar facts of the case and in the light of the above discussion, the impugned order dated 17.02.2024 (Annexure P-1), declaring the petitioner as Proclaimed Person, is not sustainable in the eyes of law and the same 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 13, 2024

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(GURBIR SINGH)
JUDGE

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

