



CRM-M-41697-2024

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.126

Case No. : CRM-M-41697-2024

Date of Decision : August 28, 2024

Harjinder Singh

.... Petitioner

vs.

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Piyush Sharma, Advocate
for the petitioner.

Ms. Manjot Kaur, AAG, Punjab.

* * *

GURBIR SINGH, J. :

1. Prayer in the present petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita (BNSS) is for quashing the impugned order dated 10.09.2018 (Annexure P-1), passed by learned Chief Judicial Magistrate, Fazilka (hereinafter referred to as – Trial Court), in case FIR No.125 dated 21.12.2017 (Annexure P-2), under Sections 420, 474, 476 IPC, registered at Police Station City Fazilka, District Fazilka, whereby the petitioner has been declared proclaimed person.

2. The aforesaid FIR was got registered against the petitioner on the allegation that he along with one Jasvir Singh was using two cars with same number plate on them. In the said case, petitioner was granted anticipatory bail by the Sessions Court vide order dated 17.01.2018. After presentation

**CRM-M-41697-2024****-2-**

of challan, notice was issued to the petitioner, which remained unserved and therefore, bailable warrant was ordered to be issued vide order dated 20.04.2018. Thereafter, vide order dated 22.05.2018, non-bailable warrant was issued against the petitioner. Thereafter, vide order dated 04.07.2018, proceedings under Section 82 Cr.P.C. were initiated against the petitioner and on 07.08.2018, statement of serving official was recorded, according to which, the proclamation was effected on 08.07.2018. Ultimately, on 10.09.2018, the petitioner was declared proclaimed person.

3. Learned counsel for the petitioner argues that the petitioner was a Sarpanch of Gram Panchayat and was a supporter of Shiromani Akali Dal. After change of Government in the State of Punjab, when Congress Party came into power, then the petitioner was being implicated in false and frivolous complaints at the instance of local Congress leaders. So, after getting anticipatory bail, the petitioner was not residing at his house and had moved to a safe place with his family. Although the Investigating Officer was very much aware about the contact details of the petitioner, the petitioner was never informed about presentation of challan and other proceedings thereafter. Neither proper procedure has been followed nor proclamation had been affixed outside the house of the petitioner, as is evident from the statement of the serving official. Even no clear notice of 30 days was given to the petitioner, as prescribed under the procedure because while adjourning the matter from 07.08.2018 to 10.09.2018, no notice regarding adjourned date was issued to the petitioner.

**CRM-M-41697-2024****-3-**

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 ground taken by the petitioner, that he was not aware about proceedings of the case, cannot be accepted because after getting anticipatory bail in a case, one gets more vigilant and keeps himself updated about the status of the case pending against him. It is not presumable that after getting concession of anticipatory bail, the petitioner would not have inquired about his case at any stage. Therefore, it is clearly understood that he intentionally avoided his appearance before the Court and was, therefore, rightly declared proclaimed person. So, keeping in view the casual approach adopted by the petitioner, he is not entitled for any relief.

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

6. The petitioner was ordered to be summoned through non-bailable warrant of arrest for 04.07.2018. The warrant was received back unexecuted and the learned Trial Court ordered to issue proclamation against the petitioner vide order dated 04.07.2018. So, proclamation was ordered to be issued against the petitioner for 07.08.2018, on which date serving official appeared and made statement. His report dated 07.08.2018 (Annexure P-4) reads as under :-

“Stated that I am posted at PS City Fazilka. The proclamation of accused Harjinder Singh s/o Ram



CRM-M-41697-2024

-4-

Singh r/o Kandhwala Hazar Khan, Tehsil & Distt. Fazilka was entrusted to me. On 08.07.2018, I visited the residence place of accused on the address given in the proclamation, where accused was not met and his house was lying locked. I pasted the one copy of the proclamation on the gate of the residential house of accused, pasted one copy on the public place, one copy at notice board of court complex and Baaz Singh son of Piar Singh r/o Kandhwala Hazar Khan, PS Arniwala, witnessed the proceedings. I also produced one copy of proclamation along with my report in the court. The copy of proclamation is Ex.PX and report is Ex.PY.”

7. From the report, it can be gathered that the proclamation was not read at the public place. Section 82(2)(i) Cr.P.C. is reproduced hereunder for ready reference :-

“The proclamation shall be published as follows -

- (i) a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;*
- b) it shall be affixed to some conspicuous part of the house or home-stead in which such person ordinarily resides or to some conspicuous place of such town or village;*
- c) a copy thereof shall be affixed to some conspicuous part of the Court house;”*

8. Since the proclamation was not done in accordance with the provisions of Section 82(2)(i)(a) Cr.P.C., the impugned order dated 10.09.2018, passed by learned Trial Court, 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. The present petition stands allowed in the above terms.
10. Pending applications, if any, shall stand disposed of along with this judgment.

August 28, 2024
monika

(GURBIR SINGH)
JUDGE

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