



warrant, the Court took the view that the petitioner was intentionally evading his service and therefore, his presence could not be procured through non-bailable warrant. So, proclamation was ordered to be issued against the petitioner for 16.12.2016. On 16.12.2016, the learned Trial Court observed that proclamation issued against the petitioner was effected on 08.12.2016 and the case was adjourned for 18.01.2017 to await appearance of the petitioner. On 18.01.2017, when the petitioner did not appear in the Court, he was declared Proclaimed Offender.

3. Learned counsel for the petitioner argues that the petitioner was not aware of the impugned order. He came to know about the same only in the month of June 2021, when he engaged a new counsel to know the status about the case in question. His earlier counsel falsely told the petitioner that he was acquitted in the case. So, he stopped appearing before the Court. The lapse, if any, on the part of the petitioner, was not intentional. So, the impugned order, declaring the petitioner a Proclaimed Offender be set aside.

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 fully aware about registration and pendency of FIR in question against him because he was earlier appearing in the case. Therefore, he cannot take plea of innocence to defend himself. He has intentionally avoided his appearance before the Court and was, therefore, rightly declared Proclaimed Offender.

So, the petitioner deserves no leniency from the Court of law.



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

7. On 09.09.2016 (Annexure P-2), the learned Trial Court passed the order that the petitioner be summoned through proclamation under Sections 82 and 83 Cr.P.C., for 16.12.2016. The order passed by learned Trial Court on 16.12.2016 reads as under :-

“Proclamation issued qua accused Varun was effected on 08.12.2016. Statement of Tamili recorded in this regard. Period of 30 days has not been elapsed. Now case is adjourned to 18.01.2017 for awaiting appearance of accused Varun.”

Since period of 30 days had not expired, the case was adjourned for 18.01.2017 for awaiting appearance of the petitioner, on which date, he was declared Proclaimed Offender. The clear 30 days' period is required to be given to the petitioner, at the time of effecting proclamation, to surrender before the concerned Court and any violation thereof, makes the order illegal. All the provisions of Section 82(2)(i) Cr.P.C. are to be mandatorily complied with. Adjournment of 30 days cannot be treated as compliance of provisions of Section 82(2)(i) Cr.P.C. I draw support from a judgment passed by a Co-ordinate Bench of this Court in the case of **Darshan Singh vs. State of Punjab and others – Law Finder Doc Id # 2529290.**

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 18.01.2017, passed by learned Trial Court, declaring the petitioner as

Proclaimed Offender, 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 27, 2024

monika

(GURBIR SINGH)
JUDGE

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