



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-45387-2024 (O&M)
Date of decision: 06.11.2024

Sumit @ Sumit Kanwal

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Sanjeev Kumar, Advocate for the petitioner.

Mr. P.K. Aggarwal, DAG, Haryana.

KARAMJIT SINGH, J. (ORAL)

CRM-42873-2024

For the reasons given in the application coupled with no objection pleaded by the State counsel, the present application is allowed and documents Annexure P-3 (collectively) are permitted to be taken on record, subject to all just exceptions.

CRM-M-45387-2024

1. The present petition has been filed by the petitioner under Section 482 Cr.P.C. seeking quashing of order dated 29.07.2017 Annexure P-1 passed by the Court of Judicial Magistrate Ist Class, Panipat vide which the petitioner was declared as proclaimed person in a criminal case having FIR No.491 dated 13.06.2015 under Sections 148, 149, 323, 332, 353, 186, 379, 427 IPC, Police Station Old Industrial, Panipat.

2. The counsel for the petitioner *inter alia* submits that the petitioner left India in 2015 and is residing in USA. It is further submitted



that even in year 2017, when the proceedings under Section 82 Cr.P.C were initiated, the petitioner was not available in India and was living in USA. In the present case, no notice or summon was sent to the petitioner through the Indian Embassy situated in USA. Further, the impugned order was not passed as per the statutory provision of Section 82 Cr.P.C, as minimum prescribed period of 30 days for appearance of the petitioner from the date of publication of proclamation was not provided by the Court concerned. It is further argued that the co-accused who faced the trial, were acquitted vide judgment dated 08.01.2020 Annexure P-2. It is further submitted that the impugned order Annexure P-1 is not sustainable and deserves to be set aside.

3. On the other hand, the State counsel submits that the impugned order Annexure P-1 was passed in accordance with law and there is no illegality in the same. It is further submitted that order Annexure P-1 was passed on 29.07.2017 whereas the present petition to challenge the said order is filed after gap of 7 years and that the present petition deserves to be dismissed being devoid of merits.

4. I have considered the submissions made by counsel for the parties.

5. From the perusal of the concerned documents, it appears that the learned trial Court issued proclamation of the petitioner for 06.06.2017 vide order dated 28.04.2017. As per the statement dated 06.06.2017 of the serving police official which was recorded by the Court concerned, it appears that the said proclamation was executed on 03.06.2017 with direction to appear before the Court concerned on 06.06.2017. Thus, the



minimum statutory period of 30 days as prescribed under Section 82 Cr.P.C. was not afforded to the petitioner for his appearance before the Court concerned with effect from the date of publication of proclamation. Further, it appears that the proclamation was not publicly read in some conspicuous place of the town/village of the petitioner, as is required as per Section 82 (2)(i)(a) Cr.P.C. Thus, it is evident that the impugned order Annexure P-1 was not passed by the Court concerned in accordance with the procedure laid down in law. Accordingly, the impugned order is not sustainable in the eyes of law. Admittedly, the petitioner has approached this Court after delay of more than 7 years seeking quashing of impugned order Annexure P-1. This Court is of the view that on account of said delay, the petitioner requires to be burdened with cost.

6. Consequently, the present petition is allowed and impugned order dated 29.07.2017 Annexure P-1 passed by the Court of Judicial Magistrate Ist Class, Panipat is hereby set aside, subject to cost of Rs.10,000/- to be deposited by the petitioner with the District Legal Services Authority concerned within a period of next 6 weeks.

06.11.2024

Yogesh

**(KARAMJIT SINGH)
JUDGE**

**Whether speaking/reasoned:-
Whether reportable:-**

**Yes/No
Yes/No**