



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-45895-2024
Date of decision: 16.09.2024

Pardeep Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. R.S. Rai, Sr. Advocate with
Mr. Amitabh Tewari, Advocate for the petitioner.

Mr. J.S. Dhaliwal, AAG, Punjab.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner seeking quashing of order dated 09.05.2008 Annexure P-2 passed by the Court of Sub Divisional Judicial Magistrate, Samrala (Ludhiana) vide which the petitioner was declared as proclaimed offender in criminal case having FIR No.32 dated 19.02.2007 (Annexure P-1), registered under Section 302/34 IPC and Section 27 of Arms Act in Police Station Samrala.

2. Senior counsel for the petitioner inter alia submits that at the relevant time when warrants of proclamation were executed against the present petitioner, he was not available in India. It is further submitted that actually, petitioner is permanent resident of USA and copy of his passport is placed on record. It is further submitted that no notice or warrants with regard to pendency of the aforesaid criminal case were ever sent at his given address in USA through the Indian embassy. That the procedure provided in

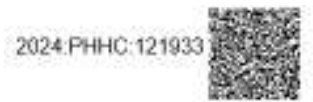


Section 105 Cr.P.C was not followed by the Court concerned while passing the impugned order. It is further contended that even otherwise the impugned order is not sustainable being not passed in conformity with the mandatory provisions of Section 82 Cr.P.C as minimum statutory period of 30 days as prescribed was not given to the petitioner to appear before the Court concerned from the date of publication of the proclamation.

3. The present petition is resisted by the State counsel who submits that there is no illegality or infirmity in the impugned order and further the petitioner has approached this Court after lapse of about 16 years of the passing of impugned order. It is further submitted that co-accused Rajender Singh father of the petitioner was convicted and sentenced to imprisonment by the trial Court.

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

5. From the perusal of the documents Annexure P-5 and Annexure P-9, it stands proved that before passing of the impugned order, reports to the effect that petitioner was not available in India, were received by the Court of Sub Divisional Judicial Magistrate, Samrala. Even now the petitioner is residing in USA. There is nothing on the record to show that the Court concerned ever made any effort to affect personal service of the petitioner in USA through the Indian embassy located in that country. Further, as per report of serving police official namely HC Shamsheer Singh (Annexure P-8), it could not be made out that the proclamation was publicly read in some conspicuous place of the town or village in which the petitioner was ordinarily residing, as per mandate of Section 82 (2) (i) (a)



Cr.P.C.

6. In light of the above, it is established that impugned order was not passed by the Court concerned, in accordance with law and it deserves to be set aside. However, the said order was passed more than 16 years back and as such petitioner deserves to be burdened with certain reasonable cost.

7. Consequently, the present petition is allowed and order dated 09.05.2008 Annexure P-2 whereby the petitioner was declared as proclaimed offender in FIR Annexure P-1 is hereby set aside subject to cost of Rs.25,000/- to be deposited by the petitioner in Poor Patients Fund, PGIMER, Chandigarh.

16.09.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-	Yes/No
Whether reportable:-	Yes/No