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

CRM-M-46026-2024

Date of Decision: September 17, 2024

MEHAKPREET SINGH ALIAS ARSH

....Petitioner(s)

VERSUS**STATE OF PUNJAB**

....Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Suneet Pal Singh Aulakh, Advocate for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J.(ORAL)

This petition has been filed by the petitioner under Section 528 BNSS seeking quashing/setting aside the impugned order dated 03.06.2023 (Annexure P-2) passed by Judicial Magistrate 1st Class, Samrala, District Ludhiana in case bearing No.CHI/81/2022 whereby the petitioner was declared as proclaimed offender in FIR No.47 (Annexure P-1) 11.04.2022 under Sections 451, 323, 149 of IPC registered at Police Station Machhiwara, Police District Khanna.

Learned counsel for the petitioner contends that order dated 03.06.2023 (Annexure P-2) is bad in the eyes of law on account of the fact that despite knowing well that the petitioner is residing in abroad, the warrant of arrest was issued and thereafter proclamation was ordered with the address of the petitioner of India i.e. Village Behlolpur, P.S. Machhiwara Sahib, District Ludhiana, as is also evident from the proclamation dated Nil whereas it is evident from order dated 20.01.2023 (Annexure P-4) passed by Judicial Magistrate 1st Class, Samrala, that it was well within the knowledge



of the lower Court that petitioner-accused Mehakpreet Singh is living abroad but still the arrest warrants and proclamation was issued at the address in India as has been observed hereinabove.

In the light of this fact, it has been argued that due service either of the arrest warrant or of the proclamation has not been effected upon the petitioner and, therefore, in the eyes of law it is not service.

On another ground, order dated 03.06.2023 (Annexure P-2) has been put to challenge that period of 30 days has not been completed as envisaged under Section 82 Cr.P.C. inasmuch the proclamation requiring the appearance of the petitioner-accused under Section 82 Cr.P.C. (Annexure P-6) is dated Nil and therefore, calculation of the period of 30 days from the date of order i.e. 03.04.2023 (Annexure P-5) vide which the proclamation was ordered to be issued is bad in law which is not in consonance with the stipulations as enshrined under Section 82 Cr.P.C.

Learned State counsel could not controvert the aforesaid legal aspects as argued on behalf of the petitioner which is duly supported by the documentary material in the form of judicial record and hence this Court is duly convinced that order dated 03.06.2023 (Annexure P-2) is bad in the eyes of law and not sustainable and suffers from illegality and infirmity, therefore the same is hereby quashed.

The petition is hereby allowed.

(SANDEEP MOUDGIL)
JUDGE

17.09.2024
Sangeeta

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