



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

CRM-M-46348-2024
Date of decision: 18.09.2024

Deshraj

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Pardeep Panwar, Advocate for the petitioner.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 528 of BNSS 2023 seeking setting aside of order dated 12.12.2016 Annexure P-1 passed by the Court of Judicial Magistrate Ist Class, Palwal in criminal case having FIR No.547 dated 16.12.2011, under Sections 279, 337 IPC, Police Station Camp, Palwal, vide which the petitioner was declared as proclaimed person.

2. Notice of motion.

3. Mr. Ashok Kumar Sehrawat, DAG, Haryana, accepts notice on behalf of the State.

4. I have heard the counsel for the parties.

5. From the perusal of order dated 27.10.2016 passed by the trial Court, it is apparent that proclamation of petitioner under Section 82 Cr.P.C was directed to be issued for 16.11.2016. As per order dated 16.11.2016 passed by the trial Court, it appears that the proclamation was received after due execution, but as prescribed period of 30 days had not lapsed from the



date of proclamation, the case was adjourned to 12.12.2016 for presence of the petitioner. Finally, impugned order Annexure P-1 was passed by the said Court on 12.12.2016. It is evident that while passing order dated 16.11.2016, the trial Court did not issue any notice of the same to the petitioner informing him that the next date fixed for his presence before the Court concerned is postponed to 12.12.2016. Thus, in the present case, the procedure prescribed under Section 82 Cr.P.C was not complied with and in fact clear period of 30 days as mandated under Section 82 Cr.P.C was not afforded to the petitioner in order to appear before the Court concerned with effect from the date on which proclamation was published against him. In the given circumstances, the impugned order Annexure P-1 is unsustainable and deserves to be set aside, in the light of the ratio laid down by this Court in *Ashok Kumar Vs. State of Haryana and another 2013 (4) RCR Criminal 550*.

6. In light of the above, the present petition is allowed and impugned order Annexure P-1 dated 12.12.2016 passed by the Court of Judicial Magistrate Ist Class, Palwal is set aside.

18.09.2024

Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No