



Hindu rites and ceremonies. Out of the wedlock, one male child was born. However, after some time of marriage, the petitioner and his family started harassing, and giving beatings to respondent No.2 on account of demand of dowry. Petitioner and his family also gave threats to kill respondent No.2. Thereafter, on 22.11.2014 respondent No.2 moved written complaint along with medical report before SHO, PS Gharaunda, District Karnal and on 28.11.2014, respondent No.2 moved another application along with medical reports before SSP Karnal but still no action was taken on both the applications. Hence, the complaint.

3. Learned counsel for the petitioner submits that the petitioner was appearing regularly in the said case but on 14.09.2018, he could not appear and his bail was cancelled and bail bonds were forfeited and he was summoned through non-bailable warrants for 20.10.2018. The proclamation under Section 82 Cr.P.C. was issued against the petitioner on 20.10.2018 and on 15.12.2018, he was declared as 'Proclaimed Person'. Learned counsel submits that petitioner was declared as 'Proclaimed Person' behind his back when he was not in India. Thus there was no effective service of the proceedings initiated against the petitioner. It is contended that the impugned order is liable to be set aside on the ground that the mandate of Section 82 of Cr.P.C. has not been followed in its letter and spirit by the trial Court.

4. Learned counsel for the petitioner further submits that a compromise has also been effected between the parties.

5. Learned State counsel supports the order passed by the learned trial Court by contending that the petitioner did not put in appearance before the trial Court intentionally and deliberately and, therefore, having left with no other option, proclamation was issued to secure his presence.



6. Learned counsel for respondent No.2 affirms the factum of compromise between the parties.

7. I have heard learned counsel for the parties and perused the record of the case with their able assistance and with the consent of parties, the matter is taken up for final disposal.

8. While the scheme of criminal justice system necessitates curtailment of personal liberty to some extent, it is of the utmost importance that the same is done in line with the procedure established by law to maintain a healthy balance between personal liberty of the individual-accused and interests of the society in promoting law and order. Such procedure must be compatible with Article 21 of the Constitution of India i.e. it must be fair, just and not suffer from the vice of arbitrariness or unreasonableness.

9. A perusal of the impugned order reveals that the trial Court issued proclamation without recording reasons of its belief that the petitioner has absconded or is concealing himself. This Court in the judgment passed in ***Major Singh @ Major Vs. State of Punjab 2023 (3) RCR (Criminal) 406; 2023 (2) Law Herald 1506*** has held that the Court is first required to record its satisfaction before issuance of process under Section 82 of Cr.P.C. and non-recording of the satisfaction itself makes such order suffering from incurable illegality. In the judgment passed by this Court in ***Sonu Vs. State of Haryana 2021 (1) RCR (Crl.) 319***, it has been held that the conditions specified in Section 82 (2) Cr.P.C. for the publication of a proclamation against an absconder are mandatory. Any non-compliance therewith cannot be cured as an 'irregularity' and renders the proclamation and proceedings subsequent thereto a nullity.



9. The sole purpose of issuance of non-bailable warrants or issuance of proclamation is to secure presence of the accused before the trial Court. The petitioner in the present case has himself come forward and a compromise has also been effected between the parties.
10. In view of the aforesaid facts and circumstances and in view of the ratio of law laid down in *Major Singh @ Major (supra)*, the present petition is allowed and the impugned order dated 15.12.2018 (Annexure P-1) vide which the petitioner was declared proclaimed person is quashed.
11. The petitioner is directed to appear before the trial Court within a period of 04 weeks from today and on his doing so, he shall be admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of the trial Court, along with costs of Rs.20,000/- to be deposited with the Poor Patients Welfare Funds, PGIMER, Chandigarh for wasting precious time of the Court.
12. The cost will be deposited by the petitioner prior to surrendering before the trial Court and a receipt of the same shall be produced before the trial Court at the time of surrendering, which shall send a report to this Court in this regard.
13. Let a copy of this order be sent to the trial Court through e-mail/fax for intimation and necessary compliance.
14. Pending miscellaneous application(s), if any, also stand(s) disposed of.

August 13, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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|------|---------------------------|--------|
| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |