



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-48737-2024
Date of decision: 30.09.2024

Satpinder Singh @ Laddi ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Mandhir Singh Virk, 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 04.11.2016 Annexure P-8 passed by the Court of Sub Divisional Judicial Magistrate, Sultanpur Lodhi, District Kapurthala vide which the petitioner was declared as proclaimed person in criminal case having FIR No.13 dated 02.02.2011 (Annexure P-1), registered under Sections 326, 324, 452 read with Section 34 IPC in Police Station Fattudhinga, District Kapurthala.
2. 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 as per the statement of one Mohinder Singh dated 03.10.2016 recorded by the Serving Police Official, the petitioner had already gone to Italy about 5/6 months back. 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

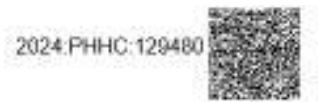


in Italy through the Indian embassy. That the procedure provided in Section 105 Cr.P.C was not followed by the Court concerned while passing the impugned order. It is further contended that even otherwise the impugned order is not sustainable being not passed in conformity with the mandatory provisions 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 contested 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 8 years of the passing of impugned order. It is further submitted that co-accused who face the trial was acquitted by the trial Court.

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

5. From the perusal of the document Annexure P-5, it is established that before passing of the impugned order, report to the effect that petitioner was not available in India, was received by the Court concerned. The counsel for the petitioner has apprised the Court that even now petitioner is residing in Italy. There is nothing on the record to show that the Court concerned ever made any effort to affect personal service of the petitioner in Italy through the Indian embassy located in that country. Further, as per report of serving police official dated 03.10.2016, 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, its stands proved 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 8 years back and as such petitioner deserves to be burdened with certain reasonable cost.

7. Consequently, the present petition is allowed and order dated 04.11.2016 Annexure P-8 whereby the petitioner was declared as proclaimed person in FIR Annexure P-1 is hereby set aside subject to cost of Rs.15,000/- to be deposited by the petitioner in Poor Patients Fund, PGIMER, Chandigarh.

30.09.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

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