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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-52762-2023
Date of decision: 08.01.2024

Renu ...Petitioner

Versus

U.T. Administration, Chandigarh and others ...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. N.S. Mahal, Advocate for the petitioner.

Mr. C.S. Bakshi, APP, U.T. Chandigarh.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner seeking quashing of order dated 04.07.2013 Annexure P-7 whereby the petitioner has been declared as proclaimed person by the Court of Judicial Magistrate Ist Class, Chandigarh in case having FIR No. 95 dated 14.05.2012 under Sections 420, 120-B of IPC at Police Station, Sector 3, Chandigarh Annexure P-1.
2. The counsel for the petitioner inter alia contends that the impugned order is not passed by the learned trial Court as per the mandate of Section 82 Cr.P.C. and consequently, the impugned order is liable to be set aside. On the other hand, the counsel appearing on behalf of UT, Chandigarh submits that the impugned order has been passed in consonance with the provisions of Section 82 of Cr.P.C and that there is no illegality or perversity in the same.

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

4. Section 82 of Cr.P.C reads as follows:-

Section 82 – Proclamation for person absconding

1. *If Any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specific place and at a specified time not less than thirty days from the date of publishing such proclamation.*
2. *The proclamation shall be published as follows-*
 - (i) *a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;*
 - b) it shall be affixed to some conspicuous part of the house or home-stead in which such person ordinarily resides or to some conspicuous place of such town or village;*
 - c) a copy thereof shall be affixed to some conspicuous part of the Court house;*
 - (ii) the Court may also, if it thinks fit, direct a copy of the proclamation to be published in a daily newspaper circulating in the place in which such person ordinarily resides.*
3. *A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day, in the manner specified in clause (i) of Sub-Section (2), shall be conclusive evidence that the requirements of this section have been complied with, and that the proclamation was published on such day.*
4. *Where a proclamation published under Sub-Section (1) is in respect of a person accused of an offence punishable under section 302, 304, 364, 367, 382, 392, 393, 394, 395, 396, 397, 398, 399, 400, 402, 436, 449, 459 or 460 of the Indian Penal Code (45 of 1860) and such person fails to appear at the specified place and time required by the proclamation, the Court may, after making such inquiry as it thinks fit, pronounce him a proclaimed offender and make a declaration to that effect.*
5. *The provisions of Sub-Sections (2) and (3) shall apply to a declaration made by the Court under Sub-Section (4) as they apply to the proclamation published under Sub-Section (1).*

5. From the perusal of the statement of serving Constable Neeraj Kumar Annexure P-6, it appears that he was entrusted with proclamation of petitioner Renu daughter of Mohan Lal resident of House No. 3234 Sector-24-D, Chandigarh on 24.05.2013 and he visited the given address and the petitioner was not found present there. On this he pasted one copy of the proclamation on the given address while another copy of the proclamation was pasted at the local bus stand while the another copy of the proclamation was affixed at the notice board of District Courts, Chandigarh and he proved

proclamation Ex.P-A and is report Ex.P-B. Thus, from the aforesaid statement of the serving constable it could be easily made out that the proclamation was not publicly read in some conspicuous place of the town or village in which such person ordinarily resides, as per mandate of Section 82 (2) (i) (a) of Cr.P.C. Thus, it is evident that the proclamation of the petitioner was not effected in consonance with the provisions of Section 82 of Cr.P.C and consequently, the impugned order is not sustainable in eye of law.

6. Resultantly, the present petition is hereby allowed and the impugned order is set aside.

7. The petition stands disposed of in aforesaid terms.

08.01.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No