



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

CRM-M-51790-2024

Date of decision: 21.10.2024

Gurpreet Singh @ Gopi

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Jasraj Singh, 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 24.11.2015 Annexure P-8 passed by the Court of Judicial Magistrate Ist Class, Garhshankar vide which the petitioner was declared as proclaimed offender in criminal case having FIR No.102 dated 02.10.2014 (Annexure P-1), registered under Sections 302, 148, 149 IPC (Section 120-B IPC added later on), at Police Station Mahilpur, District Hoshiarpur.

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 actually, petitioner is permanent resident of United Kingdom and copy of his passport is placed on record. 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 United Kingdom 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 the proclamation was not publicly read in the area of the village/town of the petitioner. The counsel for the petitioner while referring to judgment Annexure P-3 dated 17.12.2015 submits that the other accused who face trial were acquitted by the Court of Additional Sessions Judge, Hoshiarpur.

3. The present petition is resisted 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 9 years of the passing of impugned order.

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

5. The State counsel has not disputed the fact that petitioner is residing in United Kingdom since long. As per the entry in his passport, the petitioner reached England on 19.09.2012. Thus, making it clear that at the time when the proceedings under Section 82 Cr.P.C were initiated, the petitioner was not available in India. There is nothing on the record to show that the Court concerned ever made any effort to affect personal service of the petitioner in United Kingdom through the Indian embassy located in that country. Further, as per the statement of serving constable Annexure P-7, it appears that the proclamation issued against the petitioner was not 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, it is established 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 9 years back and as such petitioner deserves to be burdened with certain reasonable cost.

7. Consequently, the present petition is allowed and order dated 24.11.2015 Annexure P-8 whereby the petitioner was declared as proclaimed offender in FIR Annexure P-1 is hereby set aside subject to cost of Rs.10,000/- to be deposited by the petitioner in Poor Patients Fund, PGIMER, Chandigarh.

21.10.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No