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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-57793-2023

Date of decision: 08.01.2024

Balkar Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Narinder S. Lucky, Advocate for the petitioner.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner seeking quashing of order dated 01.11.2018 Annexure P-3 whereby the petitioner has been declared as proclaimed person by the Court of Judicial Magistrate, Ist Class, Malerkotla, Sangrur in criminal case titled State Vs. Balkar Singh FIR No. 113 dated 17.10.2015 registered under Sections 406 and 420 of IPC at Police Station Amargarh District Sangrur.
2. The counsel for the petitioner inter alia contends that the impugned order was not passed by the learned trial Court in consonance with the provisions of Section 82 of Cr.P.C., which mandates 30 days clear period should be provided to the accused person to appear in the Court concerned from the date of publication of proclamation. The counsel for the petitioner further submits that in the present case proclamation of the

petitioner was issued by the learned trial Court for 06.10.2018 vide order dated 18.08.2018 Annexure P-2 and thus, the required statutory period of 30 days was not given by the learned trial Court for the purpose of appearance of the petitioner. So prayer is made the impugned order is set aside.

3. Notice of motion.

4. Mr. Gurdarshan Singh Sidhu, AAG, Punjab accepts notice on behalf of the State and while resisting the present petition has submitted that there is no illegality or infirmity in the impugned order as the same was passed in conformity with the provisions of Section 82 of Cr.P.C.

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

6. Admittedly, the proclamation of the petitioner under Section 82 of Cr.P.C was issued by the learned trial Court for 06.10.2018 vide order dated 18.08.2018 Annexure P-2. The proclamation against the petitioner was executed on 08.09.2018 and from the perusal of the record it appears that on 06.10.2018 i.e. the date fixed for appearance of petitioner before the trial Court, the date fixed for appearance of the petitioner was further extended to 01.11.2018. From the perusal of orders dated 18.08.2018 and 06.10.2018, it is apparent that 30 days time as mandated in Section 82 Cr.P.C was not given to the petitioner for his appearance before the Court concerned as the date fixed for that purpose was 06.10.2018 and even thereafter, the period provided to the petitioner for his appearance was less than 30 days as is evident from order dated 06.10.2018. So it is evident that the impugned order was not passed in accordance with the provisions of Section 82 of Cr.P.C. In this context reference is made to law laid down by this Court in

Ashok Kumar Vs. State of Haryana and another 2013 (4) RCR (Criminal) 550.

7. In light of the above, the impugned order being illegal is hereby set aside. The present petition stands disposed of in aforesaid terms.

08.01.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

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