



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-54403-2024
Date of decision: 05.11.2024

Charanjit Singh ...Petitioner

Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Harpreet Singh Rakhra, Advocate
for the petitioner.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 528 of BNSS 2023 challenging the order dated 18.08.2017 (Annexure P-11) passed by the Court of Chief Judicial Magistrate, Mohali vide which the petitioner was declared as proclaimed person in a criminal case having FIR No.305 dated 22.11.2013 under Sections 419, 420, 465, 467, 468, 474, 120-B IPC, Police Station Phase-1, District SAS Nagar.
2. The counsel for the petitioner *inter alia* submits that the impugned order Annexure P-11 is not sustainable, as the same was not passed in consonance with the mandate of Section 82 Cr.P.C.
3. Notice of motion.
4. Mr. J.S. Dhaliwal, AAG, Punjab, accepts notice on behalf of the State and submits that the impugned order Annexure P-11 was passed in accordance with law by the Court of Chief Judicial Magistrate, Mohali and the same is dated 18.08.2017. That the petitioner has approached this Court after about 7 years of the passing of the said order. It is further submitted that the present petition deserves to be dismissed.
5. I have considered the submissions made by counsel for the parties.
6. From the perusal of Annexure P-8, it is evident that



proclamation of the petitioner under Section 82 Cr.P.C was issued for 20.07.2017 by the Court of Chief Judicial Magistrate, Mohali. As per the report submitted by the serving police official Annexure P-9, the aforesaid proclamation was executed on 17.07.2017. Thus, it is clear that minimum statutory period of 30 days was not given to the petitioner for his appearance before the Court concerned from the date of the publication of the proclamation. Further, from the perusal of Annexure P-9, it also transpires that the proclamation was not publicly read in some conspicuous place of the town/village of the petitioner, as is required as per Section 82 (2)(i)(a) Cr.P.C. Thus, it is evident that the impugned order Annexure P-11 was not passed by the Court concerned in accordance with the procedure laid down in law. Accordingly, the impugned order is not sustainable in the eyes of law. Admittedly, the petitioner has approached this Court after delay of more than 7 years seeking quashing of impugned order Annexure P-11. This Court is of the view that on account of said delay, the petitioner requires to be burdened with cost.

7. Consequently, the present petition is allowed and impugned order dated 18.08.2017 Annexure P-11 passed by the Court of Chief Judicial Magistrate, Mohali District SAS Nagar is hereby set aside, subject to cost of Rs.7500/- to be deposited by the petitioner with the District Legal Services Authority concerned within a period of next 6 weeks.

05.11.2024

Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No