



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

CRM-M-54831-2024

Date of decision: 05.11.2024

Jaspal Singh Vandal @ Tittu Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Puneet Kakkar, Advocate for the petitioner.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner seeking quashing of the impugned order dated 13.09.2019 (Annexure P-3) whereby the petitioner has been declared as proclaimed person in case bearing No.SUMM/165/2016 titled as Assistant Director I.S and Health II Vs. Narender Bajaj and another by the Court of Chief Judicial Magistrate, Gurugram.

2. The counsel for the petitioner submits that complaint was filed under the Building and other Construction Workers (Regulation of Employment and Conditions of Service) Act 1996 against the present petitioner on the basis of false allegations. It is further submitted that no notice or summons were ever served to the petitioner. Impugned order is not passed by the learned trial Court in conformity with the provisions of Section 82 Cr.P.C. as per which 30 days clear period is to be given 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, the proclamation of petitioner was issued by the learned trial Court for 11.07.2019 vide order dated 13.05.2019 and the proclamation was executed and the statement of executing official was recorded on 11.07.2019. However, by that time statutory period of 30 days had not expired and the case was adjourned to 13.08.2019 for presence of the petitioner. It is apparent that 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 that the impugned order be set aside.

3. Ms. Harpreet Kaur, AAG, Haryana accepts notice on behalf of State of Haryana and there is no illegality or infirmity in the impugned order Annexure P-3 which was passed as per the mandate of Section 82 Cr.P.C.

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

5. From the perusal of the record, it appears that vide order dated 11.06.2019, proclamation was issued against the petitioner to appear in the Court concerned on 13.08.2019 with direction to the executing official to appear before the Court concerned on 11.07.2019 for recording his statement. On 11.07.2019, statement of executing official was recorded and as statutory period of 30 days had not lapsed, the case was adjourned to 13.08.2019 for appearance of the petitioner and finally, the petitioner was declared as proclaimed person vide order Annexure P-3 dated 13.09.2019. It appears that the case was not taken up on 13.08.2019 and taken up on some other date and then adjourned to 13.09.2019, without any intimation regarding extension of time given for appearance of the petitioner till



13.09.2019, was ever being given to the petitioner. Thus, making it clear that minimum statutory period of 30 days as provided in Section 82 Cr.P.C. was not given to the petitioner for his appearance before the Court concerned with effect from the date of publication of proclamation. Further, from the persual of the statement of serving official recorded by the trial Court, it appears that the proclamation of the petitioner was not publicly read in some conspicuous place of the town or village in which he was ordinarily residing. This amounts to violation of the provision of Section 82 (2) (i) (a) Cr.P.C. So, it is evident that the impugned order was not passed in consonance with the provisions of Section 82 Cr.P.C. In this context, reference is also made to the law laid down by this Court in *Ashok Kumar Vs. State of Haryana & Anr. (Crl. Misc. No. M-13638 of 2013, decided on 05.08.2013)*.

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

05.11.2024

Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-

Whether reportable:-

Yes/No

Yes/No