

103-2

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

**CRM-M No. 60642 of 2023 (O&M)
Date of Decision: 23.01.2024**

Sabir

..... Petitioner

Versus

State of Haryana

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sudhir Rana, Advocate
for the petitioner.

Mr. Chetan Sharma, Deputy Advocate General, Haryana

HARKESH MANUJA, J. (ORAL)

The petitioner, by way of present petition filed under Section 482 Cr.P.C., seeks quashing of the order dated 11.12.2015 (**Annexure P-5**) passed by the learned Judicial Magistrate First Class, Rewari, whereby he was declared as “proclaimed offender”.

[2] In the present case, having been arrayed as one of the accused in FIR No. 120 dated 19.06.2014, under Sections 392, 395 & 412 of IPC, registered at Police Station Kasola, District Rewari, the petitioner failed to appear before the trial Court and proclamation under Section 82 of Cr.P.C. was ordered against him on 09.09.2015 (Annexure P-3) with 13.10.2015 being the date of his appearance. On 13.10.2015, learned JMFC, Rewari passed the following order:-

“ Proclamation issued against the accused received back un-executed. Statement of serving constable recorded in this regard a period of one month has not been elapsed from the

date of issuance of proclamation. Now to come upon 26.10.2015 for presence of accused.”

[3] Though, as per above order dated 13.10.2015, the proclamation against the petitioner was never received back executed, yet he was declared as proclaimed offender vide order dated 11.12.2015 (P-5).

[4] Impugning the aforesaid order dated 11.12.2015 (P-5), learned counsel for the petitioner submits that in the absence of proclamation having been executed under Section 82 of Cr.P.C., the order could not have been passed against the petitioner declaring him proclaimed offender.

[5] Learned State Counsel vehemently opposes the prayer made in the present petition, while submitting that the petitioner having knowledge of the pendency of the FIR as well as the proceedings against him, deliberately chose not to appear before the trial Court and thus, the order dated 11.12.2015 (P-5) warrants no interference.

[6] I have heard learned counsel for the parties as well as gone through the paper-book and find substance in submissions made on behalf of the petitioner.

[7] A perusal of the order dated 13.10.2015 (P-4) clearly shows that proclamation issued by the trial Court on 09.09.2015 (P-3) was never returned back executed and in the absence thereof, the declaration of petitioner as proclaimed offender vide subsequent order dated 11.12.2015 (P-5) was wholly uncalled for. In the present case, record clearly shows that mandatory procedure of Section 82 Cr.P.C. was never followed and thus, the trial Court while passing the order dated 11.12.2015 (P-5) committed illegality.

[8] Resultantly, the order dated 11.12.2015 (P-5) passed by the learned Judicial Magistrate First Class, Rewari, declaring the petitioner as “proclaimed offender” in terms of Section 82 of Cr.P.C. being in violation of the mandate of the statutory provision, is hereby quashed.

[9] The petition is **disposed off** accordingly.

[10] Pending miscellaneous application(s), if any, shall also stand disposed off.

January 23, 2024
'dk kamra'

(HARKESH MANUJA)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>