



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

CRM-M-60568-2024

Date of decision: 11.12.2024

Irshad

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Vikas Sheel Verma, Advocate for the petitioner.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 528 of BNSS 2023 seeking quashing of order dated 08.10.2013 Annexure P-4 passed by the Court of Judicial Magistrate Ist Class, Gurugram vide which the petitioner was declared as proclaimed person in criminal case having FIR No.0139 dated 03.04.2013, under Sections 120-B, 188, 379 of IPC, registered at Police Station Khedki Daula, District Gurugram (Annexure P-1)

2. Counsel for the petitioner inter alia submits that the petitioner was not named in the FIR and he was not aware of the pendency of the aforesaid criminal case. That impugned order Annexure P-1 is not passed by the learned trial Court in conformity with the provisions of Section 82 Cr.P.C. as statutory period of 30 days was not afforded to the petitioner 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 accused was issued by the learned trial Court for 24.08.2013



vide order dated 17.07.2013 and as per Annexure P-3 i.e. the statement of serving Police official, the said proclamation was executed on 18.08.2013. Thus, 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. Notice of motion.

4. Mr. Karan Garg, AAG, Haryana accepts notice on behalf of State of Haryana and submits that the petitioner was evading his arrest and thereafter his non bailable warrants of arrest were issued and finally his proclamation under Section 82 Cr.P.C. was issued by the learned trial Court vide order dated 17.07.2013 and the date fixed for appearance of the petitioner was 24.08.2013 and thereafter it was extended to 08.10.2013 and finally the petitioner was declared as proclaimed person by the learned trial Court vide impugned order, Annexure P-4 dated 08.10.2013.

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

6. Admittedly, proclamation of the petitioner under Section 82 Cr.P.C. was issued by the learned trial Court vide order dated 17.07.2013 and as per said proclamation the petitioner was directed to appear in the Court concerned on 24.08.2014 and from the perusal of Annexure P-3 it appears that the said proclamation was executed on 18.08.2013. It also appears that from 24.08.2013, the case was adjourned to 08.10.2013 for presence of the petitioner in pursuance of the aforesaid publication of proclamation against him. However, no intimation regarding extension of time given for appearance of the petitioner till 08.10.2013, was ever 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. 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 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).

7. Admittedly, impugned order was passed almost 11 years back and it being so the petitioner deserves to be burdened with cost.

8. In light of the above, without expressing any opinion on the merits of the case, the present petition is allowed and impugned order (Annexure P-4) dated 08.10.2013 is set aside subject to costs of Rs.8000/- to be deposited by the petitioner within next 20 days from today, with the District Legal Services Authority concerned.

11.12.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

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