



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

CRM-M-63472-2024 (O&M)
Date of decision: 20.12.2024

Rahul Sood

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Sameer Sachdev, Advocate for the petitioner.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by petitioner seeking quashing of order dated 08.10.2018 (Annexure P-4) whereby the petitioner has been declared as proclaimed person in criminal complaint having NACT No.598-2017 Annexure P-1 titled M/s Abhi Trading Vs. Amira Pure Foods Private Limited and others, under Section 138 NI Act, by the Court of Judicial Magistrate Ist Class, Kurukshetra.

2. The counsel for the petitioner while referring to order Annexure P-3 dated 10.08.2018 submits that the proclamation of petitioner was issued for 12.09.2018, for his appearance on that date before the Court concerned and the same was received back duly executed on 12.09.2018. That from the perusal of Annexure P-4, it appears that the said proclamation against the petitioner was effected on 07.09.2018. It is further submitted that thus, statutory period of 30 days was not given to the petitioner for his appearance before the Court concerned from the date of publication of proclamation. It is further submitted that in the given circumstances, the impugned order Annexure P-4 is not sustainable and thus, deserves to be set aside.

3. On the other hand, the State counsel while resisting the present petition submits that there is no illegality or perversity in the impugned order (Annexure P-4).

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



parties.

5. From the perusal of Annexure P-3, it is evident that the learned trial Court issued proclamation of the petitioner for 12.09.2018 vide order dated 10.08.2018. As per Annexure P-4, the said proclamation was effected against the petitioner on 07.09.2018. Thus, it is evident that minimum statutory period of 30 days was not given to the petitioner to appear before the Court concerned from the date of publication of proclamation i.e. 07.09.2018. So, in the instant case, the procedure prescribed under Section 82 Cr.P.C. has not been complied with and in fact clear period of 30 days, as mandated under Section 82 Cr.P.C. was not afforded to the petitioner in order to appear before the Court concerned with effect from the date of publication against him. In the given circumstances, the impugned order Annexure P-4 is not sustainable in the light of the law laid down by this Court in **Ashok Kumar Vs. State of Haryana & Anr. 2013(4) RCR(Crl.) 550.**

6. For the foregoing reasons, the present petition is allowed and impugned order Annexure P-4 dated 08.10.2018 is hereby set aside, qua the petitioner.

7. Pending application, if any, stands disposed of.

20.12.2024

Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No