



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

CRM-M-1137-2025
Date of decision: 22.01.2025

Yogesh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Sarun Hans, Advocate for the petitioner.

KARAMJIT SINGH, J. (ORAL)

1. The present petition under Section 528 of BNSS, 2023 has been filed by petitioner seeking quashing of order dated 08.10.2015 (Annexure P-5) passed by the Court of Judicial Magistrate Ist Class, Hisar vide which the petitioner was declared as proclaimed person in criminal case having FIR No. 214 dated 15.03.2012, under Sections 392/34 IPC and Section 25 of Arms Act, registered at Police Station Sadar Hisar and seeking quashing of FIR No.78 dated 02.02.2024 (Annexure P-2) registered under Section 174-A IPC, at Police Station Hisar Sadar.

2. The counsel for the petitioner submits that the petitioner was falsely implicated in the criminal case having FIR No.214 dated 15.03.2012 wherein later on, the petitioner was acquitted by the trial Court vide judgment dated 21.08.2024 Annexure P-1, on conclusion of trial. It is further submitted that order Annexure P-5 dated 08.10.2015 was not passed in accordance with the provisions of Section 82 Cr.P.C., as period of 30 days from the date of publication of proclamation was not afforded to the



petitioner for the purpose of his appearance before the Court concerned, as is clear from Annexure P-2 to Annexure P-5. The counsel for the petitioner further submits that it being so, the impugned order Annexure P-5 is not sustainable and deserves to be quashed. In this regard counsel for the petitioner has placed reliance upon decision of this Court in ***Ashok Kumar Vs. State of Haryana & Anr. 2013(4) RCR(Crl.) 550.***

3. Notice of motion.

4. Mr. Arjun Lakhanpal, Addl. A.G. Haryana, accepts notice on behalf of the State and submits that there is no illegality or perversity in impugned order Annexure P-5 and even no ground is made out to quash FIR Annexure P-2, registered under Section 174-A IPC against the petitioner, on the basis of order Annexure P-5. However, the State counsel has not disputed the fact that the petitioner is already acquitted by the trial Court vide judgment Annexure P-1 in a criminal case having FIR No.214 dated 15.03.2012, registered in Police Station Hisar Sadar.

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

6. From a perusal of the documents Annexure P-2 to P-4, it appears that the proclamation of the petitioner was effected on 04.09.2015 with direction to the petitioner to appear before the Court concerned on 08.09.2015, thus, making it clear that minimum prescribed period of 30 days was not given to the petitioner to appear before the Court concerned with effect from the date of publication of proclamation. Thus, in the present case the procedure prescribed under Section 82 Cr.P.C. has not been complied with. Thus, in the light of ratio laid down by this Court in ***Ashok Kumar's***



case (supra) the impugned order being illegal deserves to be set aside.

7. FIR Annexure P-2, registered under Section 174-A IPC is off shoot of the order dated 08.10.2015 Annexure P-5, which is not legally sustainable. Thus, the FIR Annexure P-2 is also not sustainable in the eyes of law and deserves to be quashed.

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-5) dated 08.10.2015 and FIR No.78 dated 02.02.2024 Annexure P-2, registered under Section 174-A IPC in Police Station Hisar Sadar and all the subsequent proceedings arising thereof are quashed qua the petitioner.

22.01.2025

Yogesh

**(KARAMJIT SINGH)
JUDGE**

**Whether speaking/reasoned:-
Whether reportable:-**

**Yes/No
Yes/No**