



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

CRM-M-3793-2024

Date of decision: 22.01.2025

Paramjit Singh and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Navjeet Singh, Advocate for the petitioners.

Mr. J.S. Dhaliwal, AAG, Punjab.

Ms. Manisha Nehra, Advocate for respondent No.2.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioners under Section 482 Cr.P.C. seeking quashing of order dated 30.05.2017 Annexure P-8 passed by the Court of Judicial Magistrate Ist Class, Patiala vide which the petitioners were declared as proclaimed offenders in criminal complaint No.79 dated 11.12.2008 Annexure P-1 titled Surinder Kumar Vs. Narinder Singh and others, under Sections 307, 323, 324, 341, 452, 427, 447, 506, 120-B IPC read with Sections 25/54/59 of Arms Act.

2. The counsel for the petitioners inter alia submits that the impugned order Annexure P-8 is not sustainable, as the same was not passed in accordance with provisions of Sections 82 and 105 of Cr.P.C. That minimum period of 30 days was not provided to the petitioners to appear before the Court concerned from the date of publication of proclamation which was effected on 29.05.2017, whereas the petitioner were declared as proclaimed person on the very next day of the publications i.e. 30.05.2017. The counsel for the petitioners while referring to zimni order dated 31.01.2017 which is reproduced in the instant petition, submits that at the relevant time, the petitioners were residing in a foreign country. That in



the present case, no notice, summons or warrants were ever issued to the petitioners through Indian Embassy, situated in the said country and even on this ground, the impugned order is not sustainable.

3. The counsel appearing on behalf of the complaint/respondent No.2 submits that there is no illegality or perversity in the impugned order Annexure P-8. That the petitioners were fully aware about the pendency of the criminal complaint filed by respondent No.2 against them. The petitioners were intentionally avoiding their service and finally, publication of the proclamation was got effected through newspaper. That proper procedure was followed by the Court concerned while passing order Annexure P-8.

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

5. It has been brought to the notice of the Court by the counsel for the petitioners that even now, the petitioners are permanent residents of Canada. From the perusal of zimni order dated 31.01.2017 passed by the Court concerned, it appears that the said Court received report to the effect that the petitioners have gone abroad and not residing at the given address. Subsequently, on the basis of the said report, the Court concerned passed order dated 01.05.2017 to summon the petitioners through publication in daily English newspaper 'The Tribune' for 29.05.2017. The said order is also reproduced in the instant petition. From the perusal of impugned order Annexure P-8, it appears that the proclamation of the petitioners was published in the concerned newspaper, in the light of aforesaid order dated 01.05.2017 passed by the Court concerned. It was public holiday on 29.05.2017. So, the case was taken up on 30.05.2017 and on the same day, impugned order Annexure P-8 was passed. There is nothing on the record to show that any notice, summon or warrant was ever sent to the petitioners through Indian Embassy, situated in Canada where the petitioners were residing at the relevant time. Thus, in this case proclamation proceedings were carried out by the Court concerned in violation of the provision of Section 105 Cr.P.C. Further, from the perusal of order dated 01.05.2017 and 30.05.2017, it appears that prescribed period of 30 days was not provided to



the petitioners from the date of publication of proclamation, for their appearance before the Court concerned, as per the mandate of Section 82 Cr.P.C. In the given circumstances, the impugned order Annexure P-8 is not legally tenable and deserves to be set aside.

6. Admittedly, the impugned order was passed about 7 years back. The petitioners deserve to be burdened with cost as they have approached this Court after delay of more than 7 years.

7. In light of the above, the present petition is allowed and order dated 30.05.2017 Annexure P-8 passed by the Court of Judicial Magistrate Ist Class, Patiala is quashed, subject to cost of Rs.10,000/- to be deposited by the petitioners with the District Legal Services Authority concerned within a period of 20 days with effect from today.

22.01.2025

Yogesh

**(KARAMJIT SINGH)
JUDGE**

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

**Yes/No
Yes/No**