



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

CRM-M-12918-2025
Date of decision: 10.03.2025

Sachin Kumar Chhabra

...Petitioner

Versus

State through Drugs Inspector, Moga-II

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. B.S. Bhalla, Advocate for the petitioner.

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

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by petitioner seeking quashing of order dated 03.10.2024 (Annexure P-5) passed by the Court of Chief Judicial Magistrate, Moga vide which the petitioner was declared as proclaimed offender in criminal complaint No.COMA-22/2023 titled State Vs. Sachin Kumar and others, under Section 18 (a)(i) read with Rule 105 and Section 18-A punishable under Section 27 (d) and Section 28 of Drugs and Cosmetics Act 1940.

2. The counsel for the petitioner submits that the petitioner was falsely implicated in the aforesaid criminal complaint. It is further submitted that the impugned order was passed in violation of the mandatory provisions of Section 82 Cr.P.C. as 30 days clear period was not given to the petitioner to appear before the Court concerned with effect from the date of publication of proclamation as is evident from the zimni orders passed by the learned trial Court and which was reproduced in the present petition.



The counsel for the petitioner further submits that it being so the impugned order Annexure P-5 is not sustainable and deserves to be set aside. 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. On the other hand, the State counsel while resisting the present petition submits that the petitioner was fully aware about the pendency of the aforesaid criminal complaint and intentionally avoided his service and was rightly declared as proclaimed offender by the learned trial Court. It is further submitted that there is no illegality or perversity in the impugned order (Annexure P-5).

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

5. From a perusal of the documents which are referred by counsel for the petitioner, it appears that the learned trial Court issued proclamation of the petitioner under Section 82 Cr.P.C. for 31.08.2024 vide order dated 17.08.2024. From the perusal of subsequent zimni order dated 31.08.2024, it is evident that the said proclamation against the petitioner was effected on 28.08.2024 and the date given for his appearance before the Court concerned was 31.08.2024. Thus, in the present case the procedure prescribed under Section 82 Cr.P.C. has not been adhered and in fact stipulated period of 30 days as mandated under Section 82 Cr.P.C. has not been afforded to the petitioner in order to appear before the Court concerned with effect from the date of publication of proclamation against him. Further from the perusal of zimni order dated 31.08.2024 passed by the learned trial Court, it appears



that as the mandatory period of 30 days had not lapsed, the case was adjourned to 03.10.2024 for awaiting the appearance of the petitioner. However, no intimation in this regard was given to the petitioner and finally, the petitioner was declared as proclaimed offender vide order Annexure P-5 dated 03.10.2024. Thus, in the light of law laid down by this Court in *Ashok Kumar's case (supra)* the impugned order being illegal deserves to be set aside.

6. In light of the above, without expressing any opinion on the merits of the case, the present petition is allowed and impugned order dated 03.10.2024 (Annexure P-5) is set aside.

10.03.2025

Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No