



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

CRM-M-24644-2023 (O&M)
Date of decision: 07.01.2025

Avtar Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. A.K. Mittal, Advocate for the petitioner.

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

KARAMJIT SINGH, J. (ORAL)

CRM-51099-2024

1. This is an application filed under Section 482 of Cr.P.C for preponement of the date of hearing in the main case from 20.03.2025 to an early date.

2. For the reasons stated in the application, the same is allowed and the date of hearing in the main case is preponed from 20.03.2025 to today and the same is taken on board today itself for hearing.

CRM-M-24644-2023

1. The present petition has been filed by the petitioner under Section 482 Cr.P.C. seeking quashing of order dated 20.10.2018 Annexure P-6 passed by the Court of Judicial Magistrate Ist Class, Ludhiana whereby the petitioner has been declared as proclaimed person in criminal complaint No. COMI/36866/2013 under Sections 467, 468, 471, 419, 420, 442, 447, 506, 49, read with Section 120 of IPC (Annexure P-1),



2. The counsel for the petitioner submits that the impugned order Annexure P-6 is passed by the trial Court in breach of the mandatory provision of Section 82 Cr.P.C. as clear 30 days 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 Annexure P-7 and Annexure P-18. The counsel for the petitioner further submits that thus the impugned order Annexure P-6 is not sustainable and deserves to be set aside.

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 case and intentionally avoided his service and was rightly declared as proclaimed person by the learned trial Court. It is further submitted that there is no illegality or perversity in the impugned order (Annexure P-6).

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 07.08.2018. From the perusal of Annexure P-18 which also includes the report submitted by serving police official, it is evident that the proclamation against the petitioner was effected on 04.08.2018 and the date given for the appearance before the Court concerned was 7.08.2018. Thus, in the present case the procedure prescribed under Section 82 Cr.P.C. has not been adhered and in fact clear 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 them. From the perusal of the aforesaid report submitted by the concerned police official, it is clear that the concerned proclamation against the petitioner was not publicly read in some conspicuous place of the town or village of the petitioner, as is required under Section 82 (2)(i)(a) Cr.P.C. Thus, in the light of law laid down by this Court in *Ashok Kumar Vs. State of Haryana & Anr. 2013 (4) RCR (Crl.) 550*, the impugned order being illegal deserves to be set aside. Admittedly, impugned order was passed more than 6 years back and it being so the petitioner deserves to be burdened with cost.

6. In light of the above, the present petition is allowed and impugned order (Annexure P-6) is set aside subject to cost of Rs.5000/- to be deposited by the petitioners within a period of next 4 weeks from today, with the District Legal Services Authority concerned, failing which the present petition should be deemed to have been dismissed.

07.01.2025

Yogesh

**(KARAMJIT SINGH)
JUDGE****Whether speaking/reasoned:-
Whether reportable:-****Yes/No
Yes/No**