



(Annexure P-11), passed by the learned Judicial Magistrate First Class, Ludhiana, in case FIR No.196 dated 04.08.2021, registered under Sections 420, 408, 467, 468, 471, and 120-B of IPC, at Police Station Division No.6, District Police Commissionerate, Ludhiana, whereby, the petitioner has been declared a proclaimed person.

On asking for the relief (surpa), learned counsel for the petitioner submits that the procedure envisaged under Section 82 of Cr.P.C, has not been meticulously complied with, while declaring the petitioner as proclaimed person.

Learned counsel for the petitioner further submits that the FIR, in which the petitioner has been declared as a proclaimed person, has been compromised between the parties concerned.

Notice of motion.

Mr. Pardeep Bajaj, DAG, Punjab, waives service of notice on behalf of the respondent-State, and he seeks time to file reply in the instant matter.

Mr. N.K. Vashisht, Advocate appears, and accepts notice on behalf of the complainant, and files his duly executed vakalatnama, which is taken on record, and he admits the factum of compromise between the parties.

List on 17.07.2024.

In the meanwhile, the impugned order declaring the petitioner as proclaimed person is ordered to be stayed.'

3. The learned State counsel supports the order passed by the learned trial Court by contending that the petitioner did not put in appearance before the trial Court intentionally and deliberately and, therefore, having left with no other option, proclamation was issued to secure her presence.

4. I have heard learned counsel for the parties and perused the record of the case with their able assistance and with the consent of parties, the matter is taken up for final disposal.

5. While the scheme of criminal justice system necessitates curtailment of personal liberty to some extent, it is of the utmost importance that the same is done in line with the procedure established by law to maintain a healthy balance between personal liberty of the individual-accused and interests of the society in promoting law and order. Such procedure must be compatible



with Article 21 of the Constitution of India i.e. it must be fair, just and not suffer from the vice of arbitrariness or unreasonableness.

6. A perusal of the impugned order reveals that the trial Court issued proclamation without recording reasons of its belief that the petitioner has absconded or is concealing herself. This Court in the judgment passed in ***Major Singh @ Major Vs. State of Punjab 2023 (3) RCR (Criminal) 406; 2023 (2) Law Herald 1506*** has held that the Court is first required to record its satisfaction before issuance of process under Section 82 of Cr.P.C. and non-recording of the satisfaction itself makes such order suffering from incurable illegality.

7. The sole purpose of issuance of non-bailable warrants or issuance of proclamation is to secure presence of the accused before the trial Court. The petitioner in the present case has herself come forward and has undertaken to appear before the trial Court on each and every date.

8. In view of the aforesaid facts and circumstances, the present petition is allowed and the impugned order dated 10.04.2023 (Annexure P-11) vide which the petitioner was declared as proclaimed person as well as Annexure P-4, vide which warrants of arrest were issued against her, are hereby set aside.

9. The petitioner is directed to appear before the trial Court within a period of two weeks from today and on her doing so, she shall be admitted to bail on her furnishing bail bonds and surety bonds to the satisfaction of the trial Court, along with costs of Rs.10,000/- to be deposited with the Poor Patient Welfare Fund, PGIMER, Chandigarh, for wasting precious time of the Court.

10. The receipt of payment of costs imposed must be presented before the learned trial Court. The learned Court below is directed to grant bail to the petitioner only upon verification of the payment of said costs.
11. However, in case, the petitioner fails to surrender before the learned trial Court within the stipulated time period, the interim protection granted by this Court, shall be deemed to be vacated.

(HARPREET SINGH BRAR)

JUDGE

29.01.2025

Neha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No