



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

CRM-M-60955-2024
Date of decision: 08.01.2025

Satnam

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Manoj Kumar, Advocate for the petitioner.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 528 of BNSS 2023, seeking quashing of order dated 17.12.2019 Annexure P-12 passed by the Court of Sub Divisional Judicial Magistrate, Derabassi, District SAS Nagar, Mohali vide which the petitioner has been declared as proclaimed person in criminal complaint bearing No.NACT No.89 dated 2018 titled Sonia Rani Vs. Satnam, under Section 138 of NI Act.

2. The counsel for the petitioner submits that false criminal complaint has been lodged against the petitioner by respondent No.2 under Section 138 NI Act and he was not aware about the pendency of the same in any Court. It is further submitted that the impugned order was passed in violation of the mandatory provisions 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-8, Annexure P-9 and Annexure P-10. The counsel for the



petitioner further submits that it being so the impugned order Annexure P-12 is not legally tenable 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***. It is further submitted that petitioner is ready to join the proceedings before the trial Court at the earliest.

3. Notice of motion.

4. Mr. J.S. Dhaliwal, AAG, Punjab, accepts notice on behalf of respondent No.1-State and submits that there is no infirmity in the impugned order Annexure P-12 and petitioner was rightly declared as proclaimed person by the learned trial Court.

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

6. 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 18.11.2019 vide order dated 21.08.2019 (Annexure P-8). From the perusal of Annexure P-9, it appears that the said proclamation was received back duly effected and then the trial Court vide order dated 18.11.2019 adjourned the case to 17.12.2019 for awaiting appearance of accused as statutory period of 30 days had not lapsed as on 18.11.2019. From the perusal of the report of serving constable which is part of Annexure P-10, it appears that the proclamation against the present petitioner was effected on 16.11.2019. Thus, making it clear that minimum prescribed period of 30 days was not given to the petitioner to put his appearance before the Court concerned from the date on which the



proclamation was executed against him. Further, as per the aforesaid report of serving constable, it is apparent that the concerned proclamation against the petitioner was not publicly read in some conspicuous place of the town or village of the petitioner.02, as is required under Section 82 (2)(i)(a) Cr.P.C.

Thus, in the present case the procedure prescribed under Section 82 Cr.P.C. has not been followed by the learned trial Court while passing the impugned order Annexure P-12. 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. Admittedly, impugned order was passed more than 5 years back and it being so the petitioner deserves to be burdened with costs.

7. In light of the above, without expressing any opinion on the merits of the case, the present petition is allowed and impugned order dated 17.12.2019 (Annexure P-12) is set aside subject to costs of Rs.5000/- to be deposited by the petitioner within a period of next 20 days from today, with the District Legal Services Authority concerned, failing which the present petition should be deemed to have been dismissed.

8. Keeping in view the nature of order being passed, no notice is required to be issued to the respondent No.2. However, if she feels dissatisfied with this order, she may move an application to recall the same.

08.01.2025

Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No