



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

CRM-M-63598-2024 (O&M)
Date of decision: 23.01.2025

Rahul Sood

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Saransh Sabharwal, 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 08.10.2018 Annexure P-4 passed by the Court of Judicial Magistrate Ist Class, Kurukshetra whereby the petitioner has been declared as proclaimed person in criminal complaint having NACT No.628 of 2017 titled M/s Ram Parshad Raj Kishan Vs. Amira Pure Foods Pvt Ltd. and others, under Section 138 of NI Act.

2. The counsel for the petitioner submits that the petitioner is falsely implicated in the aforesaid criminal complaint and he was not aware about the pendency of the same. It is further submitted that the impugned order was passed in contravention 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 orders dated 18.08.2018, 10.09.2018 and impugned order dated 18.10.2018 passed by the learned trial Court. The



copies of the said orders are part of the present petition. The counsel for the petitioner further submits that it being so the impugned order Annexure P-4 is not sustainable 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***. The counsel for the petitioner further submits that otherwise also offence under Section 138 of NI Act is a bailable offence and the petitioner is ready to join the proceedings before the learned trial Court.

3. I have considered the submissions made by counsel for the petitioner.

4. From a perusal of the aforesaid orders dated 18.08.2018, 10.09.2018 and impugned order dated 18.10.2018 which are referred by counsel for the petitioner, it appears that proclamation of the petitioner under Section 82 Cr.P.C. was issued by the learned trial Court for 10.09.2018 vide order dated 18.08.2018. The said proclamation was effected on 07.09.2018 with direction to the petitioner to appear before the Court concerned on 10.09.2018. Thus, in the present case, the procedure prescribed under Section 82 Cr.P.C. has not been complied with 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 on which proclamation was published against the petitioner. Thus, in the light of ratio laid down by this Court in ***Ashok Kumar's case (supra)*** the impugned order being illegal deserves to be set aside.

5. Order Annexure P-4 was passed on 08.10.2018 and thus, the petitioner has approached this Court after delay of more than 6 years and as

such, he is to be burdened with cost.

6. In light of the above, without expressing any opinion on the merits of the case, the present petition is allowed and impugned order (Annexure P-4) dated 08.10.2018 passed by the Court of Judicial Magistrate Ist Class, Kurukshetra is set aside, subject to cost of Rs.5000/- to be deposited by the petitioner with the District Legal Services Authority concerned.

7. Keeping in view the nature of order being passed, the instant petition is disposed of without issuance of any notice to the respondents. However, if the respondents are aggrieved of this order, they may file an application to recall the same.

23.01.2025
Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-	Yes/No
Whether reportable:-	Yes/No