



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

CRM-M-65299-2024
Date of decision: 07.01.2025

Kashmir Singh and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Diwan S. Adlakha, Advocate for the petitioners.

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

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioners under Section 528 of BNSS seeking quashing of order dated 12.10.2018 Annexure P-9 passed by the Court of Judicial Magistrate Ist Class, Ludhiana in criminal case having FIR No.190 dated 21.09.2006, registered under Sections 420, 467, 468, 471, 120-B of IPC, at Police Station Division No.7, District Ludhiana, vide which the petitioners were declared as proclaimed persons.

2. The counsel for the petitioners submits that the impugned order Annexure P-9 is passed by the trial Court in violation of the mandatory provisions of Section 82 Cr.P.C. as clear 30 days period was not given to the petitioners to appear before the Court concerned with effect from the date of publication of proclamation as is evident from Annexure P-4 and Annexure P-5. The counsel for the petitioners further submits that thus the impugned order Annexure P-9 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 petitioners were fully aware about the pendency of the aforesaid criminal case and intentionally avoided their service and were rightly declared as proclaimed persons by the learned trial Court. It is further submitted that there is no illegality or perversity in the impugned order (Annexure P-9).

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 petitioners, it appears that the learned trial Court issued proclamation of the petitioners under Section 82 Cr.P.C. for 07.08.2018 vide order dated 31.07.2018 (Annexure P-3). From the perusal of Annexure P-4 and Annexure P-5, it is evident that the proclamation against the petitioners was effected on 04.08.2018 and the date given for their appearance before the Court concerned was 07.08.2018. 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 petitioners in order to appear before the Court concerned with effect from the date of publication of proclamation against them. From the perusal of the reports submitted by the concerned serving police official which are part of Annexure P-4 and Annexure P-5, it is clear that the concerned proclamation against the petitioners was not publicly read in some conspicuous place of the town or village of the petitioners, as is required as per 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 petitioners deserve to be burdened with costs.

6. In light of the above, the present petition is allowed and impugned order (Annexure P-9) is set aside subject to costs 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