

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

204

CRM-M-48457-2021 (O&M)

Date of Decision: 16.05.2022

Gurpreet Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Ruhani Chadha, Advocate, for the petitioner.

Mr. Tanvir Joshi, AAG, Punjab,
assisted by ASI Rakesh Kumar.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks setting aside of order dated 22.09.2017 (Annexure P-3) vide which the petitioner was declared a proclaimed offender.
2. At the time of issuance of notice of motion on 17.01.2022, the following order was passed:

“The petitioner assails order dated 22.9.2017 (Annexure P-3) vide which the petitioner has been declared a proclaimed offender.

Learned counsel for the petitioner submits that in the instant case the requisite provisions of Section 82 Cr.P.C. have not been complied with in letter and spirit inasmuch a clear period of 30 days w.e.f. the date when proclamation was effected upto the date nominated for causing appearance in the Court as per proclamation notice, has not been afforded to the petitioner.

Learned counsel for the petitioner has drawn the attention of this Court to proclamation notice (Annexure P-5) issued on 17.7.2017 directing the petitioner to cause appearance on 28.8.2017.

Learned counsel for the petitioner has next referred to the statement dated 2.8.2017 of Lambardar and also the report dated 2.8.2017

(Annexure P-6) of serving official as per which it is evident that the proclamation was actually effected on 2.8.2017 i.e. just about 26 days prior to the date (28.8.2017) nominated for causing appearance of the petitioner in the Court.

Learned counsel for the petitioner has submitted that subsequent adjournments by the Court so as to complete the period of 30 days would not cure the defect of not having provided a clear period of 30 days upto the date nominated for causing appearance in the Court as per proclamation notice. Learned counsel places reliance upon Ashok Kumar Vs. State of Haryana 2013(4) R.C.R. (Criminal) 550 and a recent judgment dated 16.7.2021 of this Court rendered in CRM-M-25088 of 2021 titled Anita Sharma Vs. State of Punjab.

Notice of motion for 16.5.2022.

Meanwhile, the operation of impugned order shall remain stayed.”

3. No reply is forthcoming.
4. Keeping in view the factual position, as noticed in order dated 17.01.2022, it is apparent that a clear period of 30 days w.e.f. the date when proclamation was actually affected upto the date nominated for causing appearance i.e. 28.08.2017 was not afforded to the petitioner and it is only a period of 26 days, which was afforded. Thus, bearing in mind the law laid down in Ashok Kumar's case (supra) and Anita Sharma's case (supra), the impugned order cannot sustain and is hereby set aside. The petition is accepted accordingly.

16.05.2022

Vimal

(GURVINDER SINGH GILL)

JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No