
(2014) 10 P&H CK 0112

In the Punjab And Haryana At Chandigarh

Case No : C.R.M. No. M-24806 of 2014 (O&M)

Jagmal Singh and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 28-10-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482, 82
Penal Code, 1860 (IPC) — Section 306

Citation : (2015) 1 RCR(Criminal) 300

Hon'ble Judges : Inderjit Singh, J

Bench : Single Bench

Advocate : Gorakh Nath, Advocates for the Appellant; Subhash Godara, Addl. Advocate General, Advocates for the Respondent

Judgement

Inderjit Singh, J.—Petitioners have filed this petition against State of Haryana and other respondents under Section 482 Cr.P.C. for quashing the impugned order dated 09.06.2014 passed by learned Judicial Magistrate 1st Class, Ambala whereby Jagmal Singh, Suresh Kumar and Sangeeta Rani have been declared to be the Proclaimed persons. Notice of motion in this case was issued and learned State counsel as well as learned counsel for respondent No. 3 appeared and contested the petition and also filed reply.

2. I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

3. First of all, I find that vide order dated 09.06.2014, learned JMIC, Ambala has declared Mukesh Kumar, Amit Kumar, Sangeeta, Suresh Kumar and Jagmal Singh as proclaimed persons. It is written in the order that statement of Executing Constable is recorded in this case. Mandatory period of 30 days has expired.

4. Learned counsel for the petitioner placed on record the copy of the proclamation issued against the petitioners (Annexure P- 2). Annexure P-2 shows that only name of the case, FIR number, under Section 306 IPC and police

station has been mentioned. Also, only the address of petitioner Jagmal Singh has been given. On one side, it is written as 09.06.2014, 9 A.M. In no way, it can be held as proclamation. The proclamation was not issued in the proper form as given in the Cr.P.C. Furthermore, from this Annexure P-2, nothing is clear whether this is summon or bailable warrant etc. Mere writing of proclamation on this document, will not fulfill the conditions of issuance of proclamation. It is nowhere mentioned in the proclamation that the accused are absconding or intentionally not appearing before the Court or the Court is satisfied that accused cannot be served except through publication. Neither there is any direction given to the accused to appear within 30 days nor there is any averment that if the accused did not appear then they will be declared proclaimed persons. It is also not written in Annexure P-2 that proclamation has been issued under Section 82 Cr.P.C. There are two reports on the backside of this proclamation. In the first report, it is simply stated that Jagmal Singh has not met at his house and it is written that if he would come to the house, they would intimate him. This report is rather by one Lal Singh and Purshotam. The only report is by Roshan Lal ASI, in which he stated that intimation was given to above-named persons regarding above-noted proclamation concerning Jagmal Singh and copy of proclamation was affixed at a place near the house. One copy of the proclamation was affixed in the Court. The date under this report after over-writing is 9.06.2014. It is nowhere mentioned in the proclamation that on which date the copy of notice has been affixed in the Court and on which it was affixed near the house of the accused. Otherwise also, as already discussed nothing is clear from the so called proclamation Annexure P-2 and proclamations of other accused; whether these have been issued under Section 82 Cr.P.C. nor any direction has been given to the accused to appear within 30 days, therefore, the impugned order declaring the present petitioners as proclaimed persons under Section 82 Cr.P.C., is illegal and against the provisions of law. In view of the above, the impugned order dated 09.06.2014 passed by learned Judicial Magistrate 1st Class, Ambala is quashed. However, learned JMIC, Ambala is at liberty to issue proclamation again as per law if the accused still absconded.