

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

**CRM No.M-15601 of 2017 (O&M)**

**Date of Decision: May 30, 2017**

Hari Ram

...Petitioner

VERSUS

State of Punjab and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH**

Present: Ms.Sarika Gupta, Advocate,  
for the petitioner.

Mr.V.P.S.Sidhu, Asstt. Advocate General, Punjab  
for the respondent-State.

Ms.Divya Godara, Advocate  
for respondent No.2.

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**INDERJIT SINGH, J.**

The petitioner has filed this petition under Section 482 Cr.P.C. against respondents State of Punjab and Baljit Kaur for setting aside the impugned order dated 18.11.2011 passed by learned Judicial Magistrate Ist Class, SBS Nagar in case FIR No.52 dated 30.10.2010 under Sections 325, 323, 341 and 34 IPC registered at Police Station Behram, SBS Nagar.

Notice of motion was issued. Learned State counsel as well as learned counsel for respondent No.2 appeared.

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

Learned counsel for respondent No.2 did not contest the

petition and stated that he has no objection if the order declaring the petitioner as proclaimed offender is set aside, as compromise has already taken place between the parties. Learned counsel for respondent No.2 further argued that the matter has been compromised with other accused and they have already been acquitted.

Learned counsel for the petitioner produced on record Annexure P-8, proclamation which was signed on 03.09.2011 and the next date for appearance has been given as 29.09.2011.

Section 82 Cr.P.C. provides as under:-

**82. Proclamation for person absconding.**

*(1) If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.*

*(2) The proclamation shall be published as follows:-*

*(i) (a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;*

*(b) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village;*

*(c) a copy thereof shall be affixed to some conspicuous part of the Court- house;*

*(ii) the Court may also, if it thinks fit, direct a copy of the proclamation to be published in a daily newspaper circulating in the place in which such person ordinarily resides.*

*(3) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day, in the manner specified in clause (i) of sub- section (2), shall be conclusive evidence that the requirements of this section have been complied with, and that the proclamation was published on such day.*

The period of 30 days must be given to the accused to appear on a specific time and place after the publication of the proclamation. The

adjournment by the Court to complete 30 days' time is not compliance of the

provisions under Section 82 Cr.P.C.

The perusal of the record further shows that no fresh proclamation was issued. On 29.09.2011, the Presiding Officer was on leave and the serving constable was summoned for 18.11.2011.

In view of the above discussion, I find that the impugned order passed by learned Magistrate declaring the petitioner as proclaimed offender on 18.11.2011 is not as per law and is liable to be set aside.

Therefore, finding merit in the present petition, the same is allowed. The impugned order dated 18.11.2011 passed by learned JMIC, SBS Nagar, is set aside.

**May 30, 2017**  
Vgulati

**(INDERJIT SINGH)**  
**JUDGE**

Whether speaking/reasoned  
Whether reportable

**Yes**  
**No**