

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

**CRM-M-60487-2023 (O&M)
Date of decision-04.12.2023**

Vikram Rahi

...Petitioner

Vs.

State of Punjab and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Durga Dutt Sharma, Advocate for the petitioner.

HARPREET SINGH BRAR, J. (Oral)

1. The petitioner has approached this Court under Section 482 Cr.P.C. seeking quashing of impugned order dated 10.11.2022 (Annexure P-2) passed by the learned Additional Chief Judicial Magistrate, Bathinda, in a case bearing FIR No.120 dated 21.12.2012 for the offence under Sections 420 and 406 of Indian Penal Code, 1860 registered at Police Station Cantt. Bathinda, District Bathinda (Annexure P-1), whereby the petitioner has been declared a proclaimed person.

2. Learned counsel appearing for the petitioner, inter alia, contends that the aforesaid FIR was registered on the basis of statement of Jatinder Pal Singh son of Kamaljit Singh wherein it is alleged that he and his grand-father Lachhman Singh Mehta are running a showroom of Hero Motorcycle in partnership under the name and style of Kamal Enterprises. It is alleged that Hero Financing Company, Delhi has deputed its employee

Vikram Rahi (petitioner) in their showroom for finance/advancing the loan for purchase of motorcycle. It is alleged that said Vikram Rahi was working in their showroom from 1.10.2013. Complainant alleged that when the customers used to come to Vikram for finance/loan for the purpose of purchase of motorcycle, then he used to take the entire amount from the customers, but did not deposit the full amount to the cashier. It is alleged that whenever the customers approached them for enquiring about the registration certificate, then they disclosed that they had paid the amount to Vikram Rahi and the complainant came to know that said Vikram Rahi has grabbed huge money of the customers.

3. Learned counsel for the petitioner submitted that after registration of the FIR, the matter was compromised between the parties vide compromise deed 28.4.2023 (Annexure P-3). It has been submitted that the petitioner was not aware about any order passed declaring him as a proclaimed offender and the said fact came to the knowledge of the petitioner on the visit of police officials at his residence. It is also submitted that the petitioner undertakes to appear before the trial Court on each and every date.

4. Notice of motion.

5. Ms. Navreet Kaur Barnala, AAG, Punjab accepts notice on behalf of respondent-State.

6. Per contra, Ms. Navreet Kaur Barnala, AAG, Punjab and Mr. Saleem Malik, Advocate for respondent No.2 support the impugned order passed by the trial Court by contending that the petitioner did not put in

appearance before the trial Court intentionally and deliberately and therefore, having left with no other option, proclamation was issued to secure his presence. When the petitioner did not turn up despite execution of proclamation, he was declared a proclaimed person.

7. I have heard learned counsel for the parties and perused the record of the case with their able assistance.

8. While the scheme of criminal justice system necessitates curtailment of personal liberty to some extent, it is of the utmost importance that the same is done in line with the procedure established by law to maintain a healthy balance between personal liberty of the individual-accused and interests of the society in promoting law and order. Such procedure must be compatible with Article 21 of the Constitution of India i.e. it must be fair, just and not suffer from the vice of arbitrariness or unreasonableness.

9. A perusal of the impugned order passed by the trial Court indicates that the same sans assigning reasons or recording its satisfaction that the petitioner is absconding or concealing himself intentionally to avoid the process of law. This Court in the judgment passed in ***Major Singh @ Major Vs. State of Punjab 2023 (3) RCR (Criminal) 406; 2023 (2) Law Herald 1506*** has held that the Court is first required to record its satisfaction before issuance of process under Section 82 Cr.P.C. and non-recording of the satisfaction itself makes such order suffering from incurable illegality. In the judgment passed by this Court in ***Sonu vs. State of Haryana 2021 (1) RCR (Cri.) 319***, it has been held that the conditions

specified in Section 82 (2) Cr.P.C. for the publication of a proclamation against an absconder are mandatory. Any non-compliance therewith cannot be cured as an 'irregularity' and renders the proclamation as nullity.

10. The sole purpose of issuance of non-bailable warrants or issuance of proclamation is to secure presence of the accused before the trial Court. The petitioner in the present case has himself come forward and has undertaken to appear before the trial Court on each and every date.

11. In view of the aforesaid facts and circumstances, the impugned order dated 10.11.2022 (Annexure P-2) passed by the learned Additional Chief Judicial Magistrate, Bathinda, in a case bearing FIR No.120 dated 21.12.2012 for the offence under Sections 420 and 406 of Indian Penal Code, 1860 registered at Police Station Cantt. Bathinda, District Bathinda (Annexure P-1) vide which the petitioner was declared proclaimed person is set aside. The petitioner – Vikram Rahi is directed to appear before the trial Court on or before 18.12.2023 and on his doing so, he shall be admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of the trial Court, along with costs of Rs.10,000/- to be deposited with the District Legal Services Authority, Bathinda for wasting precious time of the Court.

12. The instant petition stands disposed of in above terms.

04.12.2023

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(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No