



**242(2) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-55130-2019 (O&M)
Date of decision: 29.07.2024**

IMAM DIN

...PETITIONER

V/S

STATE OF PUNJAB AND OTHERS

..RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Deepak Arora, Advocate
for the petitioner.

Mr. Rishabh Singla, AAG Punjab.

Mr. G.S. Rawat, Advocate
for respondents No. 2 and 3.

HARPREET SINGH BRAR J. (ORAL)

1. The petitioner has approached this Court under Section 482 Cr.P.C. praying for quashing of impugned order dated 22.01.2019 (Annexure P-3) in FIR No. 19 dated 28.03.2018 under Sections 363, 366-A and 120-B of Indian Penal Code at Police Station Purana Shalla, District Gurdaspur, vide which the petitioner has been declared as proclaimed person.

2. Learned counsel for the petitioner *inter alia* contends that provisions of Section 82 of Cr.P.C. have not been complied with by learned Court below while issuing proclamation proceedings against the petitioner as the petitioner was residing outside the State of Punjab and was never having the knowledge that the aforesaid FIR has been registered against him.

3. 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 in nature. Any non-compliance therewith cannot be cured as an 'irregularity' and renders the proclamation as nullity. Once the impugned order passed under Section 82 Cr.P.C. is found to be suffering from an incurable illegality, the order vide which the proclamation was issued would be liable to be set aside.

6. 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. Moreover, petitioner has already surrendered before the learned trial Court and in compliance of the directions issued by this Court on 17.08.2022, he has also deposited the costs of Rs. 20,000/- imposed upon him.

7. In view of the aforesaid facts and circumstances, the impugned order dated 22.01.2019 (Annexure P-3) vide which the petitioner was declared proclaimed person is set aside.

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

July 29, 2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No