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**THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

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CRM-M-881-2025 (O&M)
Date of decision: 20.02.2025

Puneet Makkar**...Petitioner**

Versus

State of Punjab and another**...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. C. L. Pawar, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

Mr. Satveer Singh Badal, Advocate
for respondent No. 2.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioner under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short 'BNSS'*) for quashing of order dated 02.06.2014 (*Annexure P-2*), passed by the Court of learned Judicial Magistrate First Class, Ropar in case titled as ***State vs. Puneet Singh***, arising out of FIR No. 05 dated 05.01.2013, registered under Sections 419, 420, 465, 467, 468, 471 and 120-B of IPC at Police Station Chamkaur Sahib, District Rupnagar, whereby the petitioner had been declared a proclaimed offender.

2. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that the petitioner has been falsely implicated in the aforementioned case. The petitioner was never served with any notice/warrants issued by the learned trial Court. Even otherwise, a compromise has been arrived at between respondent No. 2/complainant and

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other co-accused, which has been reduced into writing, vide compromise deed dated 16.11.2024 (Annexure P-3), wherein it has been agreed between the parties that the petitioner shall be bound to get the disputed sale deed cancelled. More so, the petitioner had been declared a proclaimed offender without following the proper procedure prescribed under Section 82 of Cr.P.C. The petitioner is ready to join the Court proceedings. Hence, it is urged that the impugned order is liable to be set aside.

3. On the other hand, learned Senior Deputy Advocate General, Punjab has argued that the petitioner was having knowledge about the pendency of the trial and had intentionally avoided his appearance before the learned trial Court. Therefore, he had rightly been declared a proclaimed offender. Hence, it is urged that the petition is liable to be dismissed.

4. Learned counsel for respondent No. 2/complainant has admitted the factum of compromise arrived at between respondent No. 2 and other co-accused and also that the petitioner has agreed to get the disputed sale deed cancelled. He has further submitted that respondent No. 2/complainant has no objection in case the present petition is allowed.

5. I have heard learned counsel for the parties at considerable length and have also gone through the material placed on record.

6. On giving due deliberations to the contentions as raised by learned counsel for the parties and on an overall perusal of the orders passed by the learned trial Court from the date of initiating proceedings under Section 82 of Cr.P.C. as against the petitioner till the date of declaring him a proclaimed offender, I am of the considered opinion that the impugned order

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dated 02.06.2014 suffers from material illegalities and is liable to be quashed with all the consequential proceedings arising therefrom.

7. In compliance with direction issued on 22.01.2025, learned District & Sessions Judge, Rupnagar, vide letter dated 14.02.2025, has submitted a report along with original PO proceedings orders. After going through the material placed on record as well as the zimni orders passed by the learned trial Court, it is revealed that on 21.04.2014, since the non-bailable warrants issued against the petitioner were received back unserved, the learned trial Court had ordered for issuance of proclamation against him for 02.06.2014. A bare perusal of this order shows that the learned trial Court before ordering for publication of proclamation has not recorded its proper satisfaction that the petitioner had absconded or was concealing himself so that the warrant of arrest, previously issued, cannot be executed, despite reasonable diligence, which was in violation of the provisions of Section 82(1) of Cr.P.C. Reliance in this regard can be placed upon ***Rohit Kumar Vs. State of Delhi : 2008 Crl. J. 2561.***

8. Further, a perusal of the statement of the serving police official HC Randhir Singh, recorded on 02.06.2014, reveals that the proclamation was not read over in some conspicuous place of the town or village in which the petitioner was supposed to be residing. As per Section 82 (2) of Cr.P.C. for publication, the proclamation has to be first publicly read in some conspicuous place of the town or village in which the accused ordinarily resides; then the same has to be affixed to some conspicuous part of the house or homestead in which the accused ordinarily resides or to some conspicuous place of such town or village and thereafter a copy of the proclamation has to be affixed to

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some conspicuous part of the Court-house. The three sub-clauses (a)-(c) in Section 82 (2)(i) of the Cr.P.C. are conjunctive and not disjunctive, which means that there would be no valid publication of the proclamation unless all the three modes of publication are proved. Reliance in this regard can be placed upon ***Pawan Kumar Gupta Vs. The State of W.B. : 1973 CriLJ 1368.***

9. Accordingly, in view of the discussion as made above and also in view of the ratio of law as laid down in above cited authorities, the present petition is allowed and the impugned order dated 02.06.2014 (*Annexure P-2*), passed by the Court of learned Judicial Magistrate First Class, Ropar in case titled as ***State vs. Puneet Singh***, arising out of FIR No. 05 dated 05.01.2013, registered under Sections 419, 420, 465, 467, 468, 471 and 120-B of IPC at Police Station Chamkaur Sahib, District Rupnagar, whereby the petitioner had been declared a proclaimed offender, is quashed with all consequential proceedings arising therefrom.

10. However, the petitioner is directed to surrender before the Court concerned within a period of four weeks, subject to order for grant of anticipatory bail, if any passed on his petition to be filed under Section 482 of BNSS. In the absence of any order for grant of anticipatory bail and on such surrender, the petitioner shall be liable to be remanded to judicial custody subject to any order for grant of regular bail to be passed by the concerned Court in accordance with law.

11. Needless to observe that in case any application is filed before the concerned Court for grant of regular bail, then the concerned Court shall be bound to dispose of the same expeditiously and that nothing in this order

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shall be treated as expression of any opinion on merits so as to bind or influence the concerned Court in disposal of the same.

12. Till the appearance of the petitioner before the learned trial Court, his arrest shall remain stayed.

13. It is made clear that in case the petitioner fails to appear before the learned trial Court within a period of four weeks from today, this petition shall be deemed to be dismissed.

14. The original record of the PO proceedings, sent by the learned District & Sessions Judge, Rupnagar, be sent back to the Court concerned.

20.02.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No