



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

CRM-M-3922-2025

Date of decision: 24.01.2025

Kamaljit Kaur

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Ankit Bhardwaj, Advocate and
Mr. Balbir Singh Jaswal, Advocate for the petitioner.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 528 of BNSS 2023 seeking quashing of order dated 16.10.2018 Annexure P-15 passed by the Court of Sub Divisional Judicial Magistrate, Sultanpur Lodhi, vide which the petitioner is declared as proclaimed person in a criminal case having FIR No.62 dated 19.03.2013, registered under Section 309 IPC, at Police Station Sultanpur Lodhi, District Kapurthala.
2. The counsel for the petitioner *inter alia* submits that the petitioner was falsely implicated in the aforesaid criminal case and she was not aware about the pendency of the said criminal case and further, she left her house situated in District Kapurthala and permanently shifted to Ludhiana. That no summons or warrants with regard to pendency of the aforesaid criminal case were ever received by the petitioner at her new place of residence in Ludhiana. It is further submitted that the Court concerned initiated the proceedings under Section 82 Cr.P.C. against the petitioner without recording its satisfaction that the petitioner has absconded or is concealing herself. It is further submitted that as per the report of serving police officials Annexure P-14, the proclamation was not publicly read at the spot as per the requirement of Section 82 Cr.P.C. It is further submitted that the impugned order being not passed in accordance with law, deserves



to be set aside.

3. Notice of motion.

4. Mr. J.S. Dhaliwal, AAG, Punjab, accepts notice on behalf of the State and submits that there is no illegality or perversity in the impugned order Annexure P-15 and that the present petition deserves to be dismissed.

5. I have considered the submissions made by counsel for the parties.

6. From the perusal of copies of zimni orders Annexure P-7 and P-8, it appears that on account of the absence of the petitioner, the Court concerned issued her summons, but the same were received back un-served and then petitioner was summoned throughailable warrants, as is clear from zimni orders Annexure P-9, P-10 and P-11. From the perusal of Annexure P-12, it appears that as theailable warrants of the petitioner were received back unexecuted, the trial Court directly issued proclamation of the petitioner under Section 82 Cr.P.C. It is apparent that before initiating the proceedings against the petitioner under Section 82 Cr.P.C, the Court below did not issue any nonailable warrants of arrest of the petitioner. The trial Court also did not record its satisfaction that in view of the material on record, there is reasonable ground to believe that the petitioner has absconded or concealing herself, so that warrants of arrest issued against her could not be executed. In absence of any such satisfaction on the part of the Court concerned, the issuance of the proclamation against the petitioner under Section 82 Cr.P.C, amounts to non compliance with the condition essential for issuance of proclamation, as per the provision of Section 82 Cr.P.C.

7. From the perusal of the statement of police official Annexure P-14, it is evident that at the time of publication of proclamation, the said proclamation was not publicly read in some conspicuous place of the town or village in which the petitioner was ordinarily residing, as is required as per provision of Section 82 (2) (i) (a) Cr.P.C.

8. It follows that the petitioner was wrongly declared as proclaimed person vide order Annexure P-15 in breach of the prescribed procedure and order Annexure P-15 suffers from material illegality and is



liable to be set aside.

9. The petitioner has approached this Court after about more than 6 years of the passing of order Annexure P-15. It being so, certain cost is to be imposed in the present petition, on account of aforesaid delay of 6 years.

10. In light of the above discussion, the present petition is allowed and impugned order dated 16.10.2018 Annexure P-15 passed by the Court of Sub Divisional Judicial Magistrate, Sultanpur Lodhi and all the subsequent proceedings arising therefrom are quashed qua the petitioner, subject to cost of Rs.7500/- to be deposited by the petitioner in the Court concerned within a period of next 20 days.

24.01.2025

Yogesh

**(KARAMJIT SINGH)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No