

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

CRM-M-5573-2025
Date of decision: 04.02.2025

Baldev Singh and another

...Petitioners

Versus

Kewal Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Vishva Bahl, Advocate for the petitioner.

KARAMJIT SINGH, J. (ORAL)

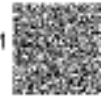
1. The present petition has been filed by the petitioners under Section 528 of BNSS 2023 seeking quashing of order dated 16.12.2021 Annexure P-1 passed by the Court Judicial Magistrate Ist Class, Tarn Taran in criminal complaint having COMI-35/2016 dated 11.03.2016, under Sections 420, 467, 468, 471 and 120-B IPC, Police Station Sarhali, District Tarn Taran, vide which the petitioners were declared proclaimed offenders.

2. Notice of motion.

3. Mr. Prince Sharma, Advocate has put in appearance on behalf of the respondent.

4. The counsel for the petitioner while assailing the impugned order Annexure P-1, inter alia submits that at the relevant time, the petitioners were residing in USA, as is clear from Annexure P-4. It is further submitted that the proper procedure as provided in Section 105 Cr.P.C. was not followed by the learned trial Court before declaring the petitioners as proclaimed offenders.

5. The counsel appearing on behalf of the respondent, while resisting the present petition inter alia submits that the proper procedure as provided in Section 82 Cr.P.C was followed by the trial Court before



passing order Annexure P-1. It is further submitted that there is no illegality or perversity in the impugned order and that the present petition deserves to be dismissed.

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

7. It is not disputed that the petitioners were summoned as accused along with some other persons to face trial in criminal complaint Annexure P-3 filed against them by the respondent. Notice sent to the petitioners by the learned trial Court was received back with report that they are not available in the country, as is evident from zimni order Annexure P-4 dated 28.09.2018 passed by the learned trial Court. From the perusal of the record, it appears that no notice, summons or warrants were issued to the petitioners through the Indian Embassy, situated in USA. Thus, in the present case, the proper procedure as prescribed in Section 105 Cr.P.C was not followed by the learned trial Court before the petitioners were declare as proclaimed offenders vide order Annexure P-1 dated 16.12.2021.

8. Admittedly, the impugned order was passed on 16.12.2021 and the petitioners have approached this Court to set aside the said order after about 4 years of its passing. So, the petitioner deserves to be burdened with cost.

9. For the foregoing reasons, the present petition is allowed and order dated 16.12.2021 Annexure P-1 passed by the learned trial Court is set aside, subject to cost of Rs.15000/- to be deposited by the petitioners in Poor Patient Welfare Fund, PGIMER, Chandigarh within a period of next 30 days.

04.02.2025

Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No