

2025.PHHC.021662



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

Sr. No.222

**CRM-M-7255-2023 (O&M)
Date of decision : 14.02.2025**

Meet Ram

..... Petitioner

VERSUS

State of Punjab and another

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Akhil Kamra, Advoate with
Mr. Shrenik Jain, Advocate, for the petitioner.

Ms. Aakanksha Gupta, AAG, Punjab.

Mr. Shubham Mirok, Advocate for
Mr. J.S. Thind, Advocate, for respondent No.2.

KIRTI SINGH, J. (Oral)

1. By way of the present petition filed under Section 482 of Cr.P.C prayer is for quashing of order dated 17.07.2008 (Annexure P5) vide which the petitioner was declared as proclaimed offender in case FIR No.172 dated 01.12.2006, under Sections 406 & 498-A IPC registered at Police Station Nurmahal, District Jalandhar and all the subsequent proceedings including the order dated 26.07.2012 (Annexure P6) whereby an order of attachment of the property under Section 83 of Cr.P.C. and order dated 10.06.2022 (Annexure P7) whereby the proclamation of the sale of property of the petitioner was passed.

2. The case of the petitioner is that abovesaid FIR was filed by respondent No.2 against the petitioner and co-accused. Thereafter, final report was presented in the case and due to non-appearance of the petitioner non-bailable warrants were issued against the petitioner vide order dated

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04.05.2007, which were received back with report that the petitioner is residing at an unknown place and vide order dated 16.05.2007, the learned trial Court initiated proclamation proceedings and vide order dated 17.07.2008, declared the petitioner as proclaimed offender.

3. Learned counsel for the petitioner contends that the petitioner was never served properly. Non-bailable warrants were issued against the petitioner vide order dated 04.05.2007, which were received back with report that the petitioner is residing at an unknown place. Thereafter, without effecting the service of the petitioner at his foreign address, the learned trial Court has declared the petitioner as a proclaimed offender without complying with the mandatory provisions of Sections 82 & 105 Cr.P.C. He further submits that in compliance of order dated 14.03.2023 passed by this Court, the petitioner has surrendered before the trial Court and has been released on bail vide order dated 28.03.2023.

4. *Per contra*, learned State counsel, has submitted that the petitioner, despite the proclamation, has failed to appear before the trial Court and has been rightly declared a proclaimed offender vide the impugned order and in addition, the petitioner is evading the process of Court which is highly deprecated on his part and in view of above, he does not deserve the concession. However, she has not disputed the fact that in compliance of order dated 14.03.2023 the petitioner has surrendered before the learned trial Court and has been released on bail.

5. Heard the rival submissions made by learned counsel for the parties.

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6. According to the averments, the petitioner had left for United Kingdom on 28.04.2006 and non-bailable warrants were issued against the petitioner vide order dated 04.05.2007, which were received back with report that the petitioner is residing at an unknown place.

7. A person cannot be said to “*abscond*” or “*evade*” the execution of warrant when he had gone to a distant place before the issue of the warrant. Dependence can be made on the judicial dictum rendered in the case of “*M.S.R. Gundappa v. State of Karnataka*” (1977 Cr LJ NOC 187), wherein it was held that a person who had gone abroad even before the issue of the warrant of arrest cannot be said to be absconding or concealing himself with the intention to disrupt the execution of that warrant.

8. Reliance can also be placed upon the judgment of this Court rendered in CRM-M-1513-2009 tiled as “*Mehar Singh And Anr. vs State of Punjab*” wherein it was held as under:

“In the present case, since the petitioners were already residing in Canada before the registration of FIR in question i.e. since the year 1997, there was no occasion for them to conceal themselves or abscond. A perusal of order dated 7-10-2008 (Annexure P-10) and order dated 21-12-2007 (Annexure P- 4) does not reveal that the petitioners were ever attempted to be served in Canada especially when there was no material on record that the petitioners had left the country after the registration of FIR in question with a view to abscond or conceal themselves. Rather in the inquiries conducted by the police, the petitioners were found to be innocent because the alleged papers in question were prepared in Canada. Thus, the petitioners were declared proclaimed offenders in violation of Section 82, Criminal Procedure Code. Accordingly, the impugned order dated

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7-10-2008 (Annexure P-10), whereby the petitioners were declared proclaimed offenders, is set aside.”

9. A bare perusal of the order dated 04.05.2007 reflects that the summons issued to the petitioner was not received back and but the petitioner had left for United Kingdom on 28.04.2006 and the trial Court has not made any effort to effect personal service of the petitioner through the embassy of India located in the concerned country where the petitioner was residing at the relevant time. Thus, making it clear that the impugned order was not passed in consonance with the mandate of Sections 82 & 105 of Cr.P.C. and is not sustainable in the eyes of law.

10. Therefore, in light of the afore-said judicial pronouncements and discussions made hereinabove, this Court is of the firm view that the impugned order dated 17.07.2008 (Annexure P5), vide which the petitioner has been declared proclaimed offender, is not sustainable in the eyes of law.

11. In view of the above, the present petition stands allowed and the impugned order dated 17.07.2008 (Annexure P5)) and all the subsequent proceedings emanating therefrom including the order dated 26.07.2012 (Annexure P6) and order dated 10.06.2022 (Annexure P7) are set aside/quashed **subject to payment of Rs.20,000/- to be deposited by the petitioner(s) in Poor Patient Welfare Fund, PGIMER, Chandigarh.**

Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

14.02.2025

Ramandeep Singh

Whether speaking / reasoned

Yes/No

Whether Reportable

Yes/No