



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M No.7968 of 2025
Date of decision: 11.02.2025

Gurbakhshish Singh

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Prateek Pandit, Advocate
for the petitioner.

HARPREET SINGH BRAR J. (Oral)

1. The present petition has been filed under Section 482 Cr.P.C., for quashing of order dated 14.11.2024 (Annexure P-9) passed by learned Sub-Divisional Judicial Magistrate, Sultanpur Lodhi, Kapurthala in FIR No.168 dated 12.10.2016 (Annexure P-1) registered under Sections 406 and 420 IPC at Police Station Sultanpur Lodhi, District Kapurthala, vide which the petitioner was declared as proclaimed person.

2. Learned counsel appearing for the petitioner, *inter alia*, contends that the petitioner has been falsely implicated and the dispute between the parties is purely civil in nature, which has culminated into a compromise and a petition under Section 482 Cr.P.C., seeking quashing of FIR (supra) has already been filed before this Court i.e. CRM-M No.58372 of 2024, in which the parties were directed to appear before the learned trial Court within a period of 02 weeks and on their

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appearance, the petitioner, who is alleged to have been declared as proclaimed person on 14.11.2024, has earlier also approached this Court by way of filing a petition i.e. CRM-M No.837 of 2020, for seeking quashing of order dated 15.02.2019 passed by learned Sub-Divisional Judicial Magistrate, Sultanpur Lodhi, Kapurthala, vide which he was declared as proclaimed person in FIR (supra). The said petition i.e. CRM-M No.837 of 2020, has already been allowed on 10.01.2025 and the order dated 15.02.2019 vide which the petitioner was declared as proclaimed person was set-aside by this Court.

3. Learned counsel for the petitioner further submits that the petitioner was never served with the summons or warrants issued by the learned trial Court, and as a result, he was wrongly declared as proclaimed person on 14.11.2024 (Annexure P-9). Aggrieved by the said impugned order dated 14.11.2024 (Annexure P-9), the petitioner has approached this Court by way of instant petition. It is contended that the impugned order is liable to be set aside on the ground that the mandate of Section 82 of Cr.P.C. has not been followed in its letter and spirit by the trial Court. Lastly, learned counsel for the petitioner submits that the petitioner undertakes to appear before the trial Court on each and every date of hearing.

4. Notice of motion.

5. Mr. Subhash Godara, Addl. A.G., Punjab, who is present in the Court, accepts notice on behalf of respondent No.1 – State while Mr. Barjinder Singh, Advocate, accepts notice on behalf of respondents



No.2 and 3 and supports the order passed by the learned trial Court by contending that the petitioner did not put in appearance before the learned trial Court intentionally and deliberately and, therefore, having left with no other option, the proclamation was issued to secure his presence.

6. I have heard learned counsel for the parties and perused the record of the case with their able assistance and with the consent of parties, the matter is taken up for final disposal.

7. While the scheme of criminal justice system necessitates curtailment of personal liberty to some extent, it is of the utmost importance that the same is done in line with the procedure established by law to maintain a healthy balance between personal liberty of the individual-accused and interests of the society in promoting law and order. Such procedure must be compatible with Article 21 of the Constitution of India i.e. it must be fair, just and not suffer from the vice of arbitrariness or unreasonableness.

8. A perusal of the impugned order clearly indicates that the petitioner was declared as proclaimed person without following the drill of Section 82 of Cr.P.C. and the learned Court below issued proclamation without recording reasons of its belief that the petitioner has absconded or is concealing himself. 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

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Section 82 of 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 (Crl.) 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. Any non-compliance therewith cannot be cured as an 'irregularity' and renders the proclamation and proceedings subsequent thereto a nullity.

9. 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 learned trial Court on each and every date of hearing.

10. In view of the aforesaid facts and circumstances, the present petition is allowed and the impugned order dated 14.11.2024 (Annexure P-9), vide which the petitioner was declared proclaimed person as well as all the consequential proceedings emanating therefrom, are hereby set-aside.

11. The petitioner is directed to appear before the learned trial Court within a period of 02 weeks from today and on doing so, he shall be admitted to bail on furnishing bail bonds and surety bonds to the satisfaction of the trial Court, along with costs of Rs.10,000/- to be deposited with the PGIMER Poor Patient Welfare Fund, Chandigarh, for wasting precious time of the Court.

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12. The receipt of payment of costs imposed upon the petitioner must be presented before learned trial Court. Learned Court below is directed to grant bail to the petitioner only upon verification of the payment of said costs.

13. However, in case, the petitioner fails to surrender before the learned trial Court within the stipulated time period, the interim protection granted by this Court, shall be deemed to be vacated.

(HARPREET SINGH BRAR)
JUDGE

11.02.2025
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No