



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

324/2

CRM-M-11582-2018 (O&M)

Date of Decision:- 04.02.2025

HARJINDER SINGH

....Petitioner(s)

Versus

STATE OF PUNJAB AND ANR

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJIV BERRY

Present : Mr. Ashok Kumar Sama, Advocate for the petitioner.

Mr. Ankit Grewal, DAG Punjab.

Mr. Tajinder Pal Singh, Advocate for respondent No.1.

SANJIV BERRY, J. (ORAL)

1. The present petition has been preferred under Section 482 CrPC for quashing of the impugned order dated 20.01.2016 (Annexure P-5) passed by learned Additional Sessions Judge, Fazilka vide which the petitioner had been declared as proclaimed offender and order dated 11.12.2015 vide which non-bailable warrants had been issued against the petitioner in Criminal Appeal No.204 of 2014 titled as 'Gurupdesh Singh Sidhu Vs. Harjinder Singh'.

2. It is *inter alia* submitted by learned counsel for the petitioner that the petitioner had been summoned to face trial in a Criminal Complaint filed under Section 138 of the Negotiable Instruments Act titled as 'Gurupdesh Singh Sidhu Vs. Harjinder Singh', wherein the petitioner was



convicted and ordered to pay compensation of the cheque amount i.e. ₹5 lakhs vide judgement of conviction and order of sentence dated 09.09.2014 passed by learned Judicial Magistrate First Class, Fazilka. Aggrieved against the said order awarding compensation, the complainant preferred an appeal before the Court of learned Additional Sessions, Judge Fazilka vide CRA 204 of 2014 titled as 'Gurupdesh Singh Sidhu Vs. Harjinder Singh'. It is submitted that during the pendency thereof, the petitioner (respondent therein) absented from the proceedings on 21.10.2015, leading to cancellation of his bail and issuance of non-bailable warrants of arrest followed by issuance of proclamation under Section 82 CrPC vide order dated 11.12.2015 and ultimately declaring the petitioner as proclaimed offender in the case vide impugned order dated 20.01.2016 passed by learned Additional Sessions Judge, Fazilka. He contends that the petitioner has been declared as proclaimed offender in the case without following the due procedure laid down by the law and in utter violation of the provisions of Section 82 CrPC, hence prayed for acceptance of the present petition.

3. Learned counsel appearing on behalf of respondent No.1 has submitted that the petitioner had been declared proclaimed offender as he absented from the proceedings before the learned Appellate Court. He submits that now the matter has been compromised between the parties vide compromise dated 19.11.2024. A copy thereof has been placed on record. He submits that respondent No.1 has no objection in setting aside of the impugned order.

4. Learned State counsel has not disputed the factual matrix. .



5. Heard learned counsel for the parties and perused the record.

6. After considering the rival contentions and perusing the record, it is observed that so far as the judgment dated 09.09.2014 passed by learned Judicial Magistrate First Class, Fazilka, whereby the petitioner was convicted for offence under Section 138 of the Negotiable Instruments Act and was ordered to pay compensation amounting to ₹5,00,000/-, is not disputed. Admittedly, it was the respondent-complainant, who had preferred an appeal challenging the order of sentence before the Court of learned Additional Sessions, Judge Fazilka. It is the contention put forth by learned counsel for the petitioner that in due course of proceedings, since the settlement had been affected between the parties and the petitioner was of the view that his presence was not required before the Court, and under this misconception, he absented from the proceedings. He further submitted that the petitioner never received any summons or warrants and for that matter any proclamation to appear in the Court. The perusal of the record would reveal that in the said appeal, the petitioner had absented from the proceedings on 21.10.2015 and the learned Court issued his non-bailable warrants for 07.11.2015 after cancelling his bail. Ultimately, on 11.12.2015, the learned Court issued proclamation under Section 82 CrPC for 21.12.2015 and later the petitioner was declared proclaimed offender vide order dated 20.01.2016. As is evident, the learned Court issued the proclamation on 11.12.2015 for 21.12.2015 i.e. for a period less than 30 days and further there is nothing on record that there was any proclamation for the petitioner to appear on 20.01.2016, when eventually he was declared



proclaimed offender in this case. Therefore, the proceedings have been carried out by the learned Court in utter disregard to the provisions of Section 82 CrPC. Moreover, the parties have already affected compromise and the learned counsel for respondent No.1 has no objection in setting aside of the impugned order dated 20.01.2016 (Annexure P-5).

7. Therefore, taking into consideration the above facts and circumstances and also the fact that the impugned order has not been passed in compliance of the provision of Section 82 CrPC, the impugned order dated 20.01.2016 (Annexure P-5) passed by learned Additional Sessions Judge, Fazilka, declaring the petitioner as proclaimed offender, in the case is hereby set aside, subject to payment of cost of ₹10,000/- to be deposited by the petitioner in the High Court Legal Services Committee, Punjab and Haryana High Court, Chandigarh, within a period of seven days from today.

8. Disposed of

(SANJIV BERRY)
JUDGE

04.02.2025
S.Sharma(syr)

i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No