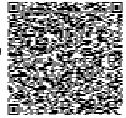


2025:PHHC:036035



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

117

CRM-M-9320-2025 (O&M)

Date of decision: 17.03.2025

Barinderpal Singh @ Varinderpal Singh**...Petitioner****Versus****State of Punjab and another****...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

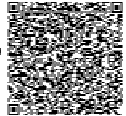
Present:- Mr. Impinder Singh Dhaliwal, Advocate
for the petitioner.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioner under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short 'BNSS'*) for quashing of order dated 02.02.2023 (Annexure P-4), passed by the Court of learned Judicial Magistrate First Class, Talwandi Sabo in case titled as ***The Bathinda Bank vs. Barinderpal Singh***, arising out complaint bearing No. COMA/161/2020, filed under Section 138 of the Negotiable Instruments Act, 1881 (*for short 'N. I. Act'*), whereby the petitioner had been declared a proclaimed person.

2. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that the petitioner has been falsely implicated in the aforementioned complaint. The petitioner was not aware about pendency of the aforementioned complaint. He was never served with any notice/warrants issued by the learned trial Court. More so, the petitioner had been declared a proclaimed person without following the proper procedure prescribed under Section 82 of Cr.P.C. Hence, it is urged that the impugned order is liable to be set aside.

2025:PHHC:036035



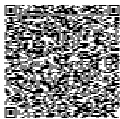
3. I have heard learned counsel for the petitioner at considerable length and have also gone through the material placed on record.

4. On giving due deliberations to the contentions as raised by learned counsel for the parties and on an overall perusal of the orders passed by the learned trial Court from the date of initiating proceedings under Section 82 Cr.P.C. as against the petitioner till the date of declaring him a proclaimed person, I am of the considered opinion that the impugned order dated 02.02.2023 suffers from material illegalities and is liable to be quashed with all the consequential proceedings arising therefrom.

5. After going through the material placed on record as well as the copies of zimni orders passed by the learned trial Court, it is revealed that on 10.11.2022, since the non-bailable warrants issued against the petitioner were received back unserved, the learned trial Court had ordered for issuance of proclamation against him for 05.01.2023. A bare perusal of this order shows that the learned trial Court before ordering for publication of proclamation has not recorded its proper satisfaction that the petitioner had absconded or was concealing himself so that the warrant of arrest, previously issued, cannot be executed, despite reasonable diligence, which was in violation of the provisions of Section 82(1) of Cr.P.C. Reliance in this regard can be placed upon ***Rohit Kumar Vs. State of Delhi : 2008 CrL J. 2561.***

6. Further, on 05.01.2023, since the Presiding Officer was on leave, the case was put up before the Duty Magistrate. The proclamation was received back executed but the case was adjourned to 02.02.2023. However, once the proclamation was received back executed, there was no need to adjourn the case and the proceedings should have culminated on the same day

2025:PHHC:036035



after recording the statement of the serving police official. Hence, it can be stated that the procedure so adopted was not in accordance with the provisions of Section 82 of Cr.P.C.

8. Accordingly, in view of the discussion as made above and also in view of the ratio of law as laid down in above cited authorities, the present petition is allowed and the impugned order dated 02.02.2023 (Annexure P-4), passed by the Court of learned Judicial Magistrate First Class, Talwandi Sabo in case titled as *The Bathinda Bank vs. Barinderpal Singh*, arising out of complaint bearing No. COMA/161/2020, filed under Section 138 of the N. I. Act, whereby the petitioner had been declared a proclaimed person, is quashed with all consequential proceedings arising therefrom. The petitioner is directed to surrender before the learned trial Court within a period of 15 days from today and on doing so, the learned trial Court shall release him on bail, subject to his furnishing personal/surety bonds to its satisfaction.

4. Till the appearance of the petitioner before the learned trial Court, his arrest shall remain stayed.

5. It is made clear that in case the petitioner fails to appear before the learned trial Court within the stipulated time, this petition shall be deemed to be dismissed.

6. However, this relief shall be subject to payment of cost of Rs. 5,000/-, to be deposited by the petitioner with the learned trial Court, which shall be disbursed to the complainant/respondent No. 2.

17.03.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No