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

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CRM-M-10910-2025 (O&M)

Date of decision: 27.02.2025

Bhupinder Singh**...Petitioner****Versus****State of Haryana and another****...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Inderjeet Singh, 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 20.11.2024 (Annexure P-1), passed by the Court of learned Judicial Magistrate First Class, Bilaspur in case titled as ***Pardeep Verma vs. Bhupinder Singh***, arising out a complaint bearing No. NIA/354/2019, filed under Section 138 of the Negotiable Instruments Act, 1881 (*for short 'N. I. Act'*) read with Section 420 of IPC, 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 in fact, the petitioner had returned the disputed amount of money to the complainant even prior to his being declared a proclaimed person as a compromise had arrived at between the parties and in pursuance thereof, the complaint in question had been dismissed as withdrawn on 28.11.2024. Even otherwise, the petitioner had been declared a proclaimed person without following the proper procedure

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prescribed under Section 82 of Cr.P.C. Hence, it is urged that the impugned order is liable to be set aside.

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 20.11.2024 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 26.09.2024, 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 20.11.2024, which was executed by the serving police official on 15.10.2024. However, a perusal of the statement of the serving police official reveals that the proclamation was neither read over in some conspicuous place of the town or village in which the petitioner was supposed to be residing nor was it affixed at a public place. As per Section 82 (2) of Cr.P.C. for publication, the proclamation has to be first publicly read in some conspicuous place of the town or village in which the accused ordinarily resides; then the same has to be affixed to some conspicuous part of the house or homestead in which the accused ordinarily resides or to some conspicuous place of such town or village and thereafter a copy of the proclamation has to

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be affixed to some conspicuous part of the Court-house. The three sub-clauses (a)-(c) in Section 82 (2)(i) of the Cr.P.C. are conjunctive and not disjunctive, which means that there would be no valid publication of the proclamation unless all the three modes of publication are proved. Reliance in this regard can be placed upon *Pawan Kumar Gupta Vs. The State of W.B. : 1973 CriLJ 1368*.

6. 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 20.11.2024 (Annexure P-1), passed by the Court of learned Judicial Magistrate First Class, Bilaspur in case titled as *Pardeep Verma vs. Bhupinder Singh*, arising out a complaint bearing No. NIA/354/2019, filed under Section 138 of the N. I. Act read with Section 420 of IPC, whereby the petitioner had been declared a proclaimed person, is quashed with all consequential proceedings arising therefrom.

7. However, the petitioner is directed to deposit a cost of Rs. 5,000/- with the District Legal Services Authority, concerned within a period of two weeks from today.

27.02.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No