



CRM-M-16082-2025 (O&M)

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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH****CRM-M-16082-2025 (O&M)****Reserved on : 23.09.2025****Pronounced on : 25.09.2025**

Shingara Singh

..... Petitioner

VERSUS

State of Punjab & Anr.

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Argued by: Mr. Amit Mehta, Advocate for the petitioner.

Ms. Gurpreet Kaur Sarabha, AAG, Punjab.

Mr. Bhanu Partap Singh, Advocate for respondent No.2.

SURYA PARTAP SINGH, J.

1. By invoking the jurisdiction vested in this Court by virtue of Section 482 of the Code of Criminal Procedure, the quashing of order dated 06.04.2021, passed by the learned Judicial Magistrate First Class, Moga, in a trial pertaining to FIR No.52 dated 08.03.2020, Police Station City Moga, District Moga, has been sought. The abovementioned FIR has been lodged for the commission of offence punishable under Sections 420, 465, 467, 468, 471 and 120-B of Indian Penal Code, hereinafter referred to as 'IPC'.

2. In nut-shell, the facts emerging from the record are that for the commission of abovementioned offence, the abovementioned FIR was lodged, wherein the petitioner was named as an accused. However, during



the course of investigation, when the investigating agency (police) could not lay hand upon the petitioner and he could not be arrested, an application was moved before the learned trial Court, who after following the laid down procedure, declared the petitioner to be a proclaimed person, by virtue of order dated 06.04.2021, hereinafter being referred to as 'impugned order'.

3. It has been claimed by the petitioner that the impugned order is against the fact as well as law, and that proper procedure prescribed under Section 82 of CrPC has not been followed in the instant case. According to petitioner, right from the moment when the FIR was registered till the date he was declared proclaimed person, the petitioner was not residing in India and therefore, he was not aware of the abovementioned proceedings. It has also been alleged by the petitioner that he was ignorant of the abovementioned proceedings and thus, declaring him proclaimed person is illegal.

4. Heard.

5. It has been argued by learned counsel for the petitioner that a miscarriage of justice has taken place because of impugned order, and that the petitioner, who is an innocent Non-Resident Indian, settled in Canada, has been declared proclaimed person without verifying the fact that much before the filing of FIR he had left the country, and that since the date of lodging of FIR till today, he has never visited India. According to learned counsel for the petitioner in the abovementioned circumstances, it was not



possible for the petitioner to know about the proceedings, wherein he was declared a proclaimed person.

6. While referring to the provisions as enshrined under Section 105 of CrPC and Section 82 of CrPC, it has been argued by learned counsel for the petitioner that the entire proceedings with regard to proclamation against the petitioner took place by reflecting the residential address of petitioner where he is not residing for the last so many years. According to learned counsel for the petitioner, due to abovementioned illegal order, the petitioner is facing trouble. Hence, the present petition.

7. *Per contra*, learned State Counsel, while referring to the contents of reply, has argued that the petitioner, who has been declared proclaimed person, is facing serious allegations of committing fraud. The learned State Counsel, while defending the impugned order, has come forward with an argument that a proper procedure has been adopted by the learned trial Court and there is no scope for indulgence and interference of appellate jurisdiction of this Court in the impugned order.

8. The record has been perused carefully.

9. A perusal of record shows that the FIR for the commission of offence punishable under Sections 420, 465, 467, 468, 471 and 120-B of IPC, which is subject matter of the present petition, came into being at the instance of complainant, namely Harjit Kaur Khattar. It is an admitted fact that the complainant was brother's wife of the petitioner, and that earlier the property, which is the subject matter of dispute between the parties, was



owned by the husband of complainant, who happened to be the real brother of the petitioner.

10. The factual matrix of the instant case shows that husband of the petitioner, namely Mukhtiar Singh, was owner of the property in dispute and he had executed a Will in favour of the petitioner for the management of abovementioned property. According to petitioner, in his last days, Mukhtiar Singh was severely ill, as he was suffering from cancer, and that in December 2015, he was admitted in hospital, where he was discharged on the ground that bed has been arrange, for him, in the home. As per petitioner, while being in home in the abovementioned condition, a Will was executed by Mukhtiar Singh in favour of complainant.

11. It is also relevant to mention here that after the death of Mukhtiar Singh, the mutation of abovementioned disputed property was got sanctioned in the name of petitioner, and he sold the same in the year 2019. The complainant, who is claiming title over the same property on the basis of subsequent Will, alleged that a fraud was played by the petitioner by selling the property of Mukhtiar Singh on the basis of Will. Since the FIR was lodged, the investigating agency made efforts to arrest the petitioner, but he could not be arrested, as he was out of country. Thus, the learned Judicial Magistrate First Class, Moga on 12.01.2025 recorded the following order:-

“Non bailable warrants of arrest of accused Shingara Singh received back unexecuted. From perusal of file shows that case is pending for service of accused since long but non bailable warrants of accused received back unexecuted for three times.



It appears and the court has reason to believe that he is avoiding process of the Court and his presence cannot be procured through ordinary process. Let accused Shingara Singh is ordered to be summoned through proclamation under Section 82 Cr.P.C. with direction to appear before the Court on or before 02.03.2021. Notice to serving official be also issued with direction to appear on date fixed for making statement.”

Subsequently, on 06.04.2025, the petitioner was declared proclaimed person.

12. With regard to abovementioned order, the most relevant fact to be taken into consideration is that in the FIR itself, it has been recorded that the petitioner was residing in Canada. It is also apparent from record that the proceedings for declaring the petitioner proclaimed person had taken place in India and the learned trial Court never resorted to the provisions as enshrined under Section 105 of CrPC, to procure the presence of petitioner in the Court. Even efforts were not made to intimate the petitioner about the pendency of FIR and thus, it is apparent on the face of itself that the proceedings of declaring the petitioner, as a proclaimed person, have taken place for a place, which was not a normal place of abode of the petitioner.

13. In addition to above, it is also relevant to mention that the copy of zimni orders recorded by the learned trial Court shows that:

- i. the proclamation of petitioner was made at the address, which was given/mentioned by the investigating agency at the time of submission of final report in the Court. However, as per claim of the petitioner, he was not residing at the abovementioned address, since he left India;



- ii. that the record also reveals that as per mandate of Section 82 of CrPC, the proclamation was not read publicly;
- iii. that the mandatory period of 30 days from the date of pasting of proclamation till the date of appearance of petitioner has not been complied with;

14. Taking into consideration the cumulative effects of all the abovementioned factors, it is hereby held that the manner, in which proceedings have been taken place by the learned trial Court for declaring the petitioner proclaimed person, is in utter violation of the settled principles of law as well as laid down procedure, and therefore, the impugned order, whereby the petitioner has been declared proclaimed person, is not sustainable in the eyes of law.

15. In view of abovementioned observations, it is hereby held that by invoking the extraordinary jurisdiction, there is need for intervention and indulgence of this Court in the impugned order. Hence, the present petition is hereby allowed and the impugned order is set aside.

16. Pending miscellaneous application(s), if any, shall also stand disposed of.

(SURYA PARTAP SINGH)
JUDGE

SEPTEMBER 25, 2025
Gaurav Thakur

Whether speaking / reasoned	Yes/No
Whether Reportable	Yes/No