

2025:PHHC:125953



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

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CRM-M-37931-2017 (O & M)

Date of decision: 10.09.2025

Balwinder Singh

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Ms. Swati Katoch, Advocate for
Mr. Aman Pal, Advocate for the petitioner.

Mr. Parmod Kumar, AAG, Haryana.

AMAN CHAUDHARY, J. (ORAL)

1. Prayer made in the present petition filed under Section 482 Cr.P.C. for quashing of FIR No.685 dated 14.11.1993 registered under Sections 307, 325, 324, 323, 148, 149 IPC and Sections 25/54/59 of Arms Act, at Police Station Fatehabad and order dated 06.01.1998 (Annexure P2) whereby the petitioner was declared as proclaimed offender.

2. Learned counsel restricts her prayer only to quash the order dated 06.01.1998 and with regard to quashing of the FIR, she withdraws the present petition with liberty to take all pleas at the relevant time, in accordance with law.

3. Learned counsel for the petitioner submits that the FIR was registered on 14.11.1993, was arrested on 16.11.1993 and granted bail by the trial Court, whereafter the charges were also framed, however, during the pendency thereof in the month of May 1997, an oral compromise was

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effected between the parties. Thereafter, the petitioner left the country in the year 1997 itself for employment under the impression that the matter has been sorted out and no litigation remains pending between the parties. It is only in July 2017, when the petitioner visited India and came to know that he was declared proclaimed offender. The co-accused during the interregnum convicted by the trial Court on 30.04.1999, whereafter an appeal was filed in the year 1999, which was disposed of vide judgment dated 18.02.2010 and the sentence period was reduced to already undergone, in view of compromise between the parties (Annexure P3). It is her submission that proper procedure as envisaged under Sections 41, 105 and 82 Cr. P.C. was not followed, inasmuch as he was residing abroad at the time of issuance of proclamation. A further reference is made to a Notification issued by the Government of India Ministry of Home Affairs, IS Division-II:Legal Cell New Delhi, dated the 11th Feb, 2009, laying down comprehensive guidelines in this regard of reciprocal arrangements to be made by Central Government with the Foreign Governments with regard to the service of summons/warrants/judicial processes. The Ministry of Home Affairs has entered into Mutual Legal Assistance Treaty/Agreements with 22 countries which provide for serving of documents. Thus the proclamation proceedings being in violation thereof are liable to be set aside, however, he is ready and willing to surrender before the trial Court for which he seeks only one opportunity, which may even be subject to imposition of costs or any other conditions, which this Court may deem appropriate.

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4. Learned State counsel submits that the trial Court has rightly passed the order as the petitioner did not appear before the Court and evaded the proceedings.

5 Heard the learned counsel on either side.

6. In the case of **Jasbir Kaur vs. State of Punjab and another**, CRM-M-25115-2022, decided on 2.6.2022, since the petitioner therein was a Non Indian Resident residing in Canada and proclamation proceedings had been initiated while she was not in India, as such, the order of proclamation was set aside.

7. Similarly, in **Jaswant Singh vs. State of Punjab and another**, CRM-M-32011-2018, decided on 6.2.2020, this Court in the interim order dated 10.9.2018, noticed the submission made by the counsel for the petitioner relying on the photocopy of the passport (Annexure A-1) that the petitioner was not in India at the time of registration of FIR on 29.10.2009, as well as, on the day, when he was declared proclaimed offender vide order dated 28.4.2014 and even on the date of passing of the above order, as he was in Italy, directed him to surrender before the trial Court, upon which interim bail was ordered to be granted to him.

8. The very purpose of issuance of summons, warrants etc. is to compel and secure the presence of the accused to face trial and establish the rule of law so as to ensure finalization of the proceedings.

9. Adverting to the facts of the present case, inasmuch as, it was because the petitioner had been residing in U.K. prior to the passing of impugned order dated 06.01.1998, and the procedure as envisaged by the Code not followed in letter and spirit, he could not be served and as such,

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his explanation for absence appears to be justified. However, it is incumbent upon him to join the proceedings, before the trial Court, for the culmination of the same. Considering his absence not being willful and deliberate and no prejudice shall be caused to the complainant, rather him to join the proceedings would help in expediting the trial, which is in the interest of the parties thus, in order to meet the ends of justice and on finding judgments referred to above being applicable to the instant case, he deserves an opportunity.

10. Accordingly, the impugned order dated 06.01.1998, Annexure P-2, is set aside, subject to surrender by the petitioner before the trial Court within a period of two months and payment of costs of Rs.25,000/- to be deposited with Chandigarh Spinal Rehab, Plot No.1, Sector 28-A, Chandigarh. On furnishing bail/surety bonds, the trial Court shall release him on bail subject to its satisfaction. The trial Court may impose any other condition that it may deem appropriate in the facts and circumstances of the present case. Till then, no coercive steps be taken against the petitioner.

11. Disposed of accordingly.

12. Before parting with this order, it is made abundantly clear that in case the petitioner does not adhere to the aforesaid, the present petition shall be deemed to have been dismissed without any reference to this Court.

10.09.2025

vishal/ashok

(AMAN CHAUDHARY)
JUDGE

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