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

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CRM-M-22003-2025 (O&M)

Date of decision: 28.04.2025

Ravi**...Petitioner****Versus****Cholamandalam Investment & Finance Co. Ltd.****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Vikasdeep 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 10.09.2024 (Annexure P-1), passed by the Court of learned Judicial Magistrate First Class, Jalandhar in complaint bearing CIS No. NACT-21844-2022, titled as ***Cholamandalam Investment and Finance Co. Ltd. vs. Ravi***, arising out of a complaint filed under Section 138 of the N.I. Act, 1881, 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 could not appear before the Court as 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. He is ready to join the Court proceedings. 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.

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5. 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 10.09.2024 suffers from some illegalities and is liable to be quashed with all the consequential proceedings arising therefrom.

6. 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 16.04.2024, 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 by way of publication in the newspaper i.e. 'Daily Aashiana'. However, since the publication charges were not deposited, the same could not be done. Eventually, on 02.07.2024, the publication charges were deposited and the proclamation was ordered to be made against the petitioner for 10.09.2024. A bare perusal of the order dated 16.04.2024 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.***

7. Further, as per Section 82 of Cr.P.C., the Court may ***also***, if it thinks fit, direct a copy of the proclamation to be published in a daily newspaper circulating in the place in which such person ordinarily resides. However, a perusal of the order dated 16.04.2024 reveals that the learned trial

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Court had straightaway resorted to publication in the newspaper, which cannot be said to be in proper compliance of the provisions of Section 82 of Cr.P.C.

9. 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 10.09.2024 (Annexure P-1), passed by the Court of learned Judicial Magistrate First Class, Jalandhar in complaint bearing CIS No. NACT-21844-2022, titled as ***Cholamandalam Investment and Finance Co. Ltd. vs. Ravi***, arising out of a complaint filed under Section 138 of the N. I. Act, 1881, whereby the petitioner had been declared a proclaimed person, is quashed with all consequential proceedings arising therefrom.

10. Keeping in view the fact that the petitioner is ready to join the Court proceedings which would obviously help in speedy conclusion of trial, he is directed to surrender before the learned trial Court within a period of 02 weeks from today and on doing so, the learned trial Court shall release him on bail, subject to his furnishing fresh personal/surety bonds to its satisfaction.

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

12. 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.

28.04.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

*Whether speaking/reasoned**Yes/No**Whether reportable**Yes/No*