



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

159

CRM-M-27601-2025
Date of decision: 19.05.2025

Shah Rajender lal @ Raja

...Petitioner

Versus

State of Haryana & another

...Respondents

CORAM: HON'BLE MR. JUSTICE H.S. GREWAL

Present : Mr.Manoj Kaushik, Advocate, for the petitioner.

H.S. GREWAL, J. (Oral)

1. The present petition has been filed by the petitioners under Sections 528 of the Bhartiya Nagarik Suraksha Sanhita 2023, for quashing of FIR No.752 dated 12.03.2020 under Section 174A of IPC registered at Police Station-Shivaji Nagar District Gurugram (Annexure P-1) along with all the subsequent proceedings arising out of it especially the petitioner has been declared a proclaimed person vide order dated 16.03.2017 (Annexure P-7) passed by the Ld. JMIC Gurugram without following the proper & valid procedure enshrined under Section 82 Cr.P.C.

2. The brief facts of the case are that respondent No.2-M/s Orange Coating Pvt. Ltd has filed a criminal complaint under Section 138 of the Negotiable Instruments Act, 1881 (in short "the Act") against the petitioner wherein the summoning order was passed but as the petitioner failed to appear before the trial Court, proceedings under Section 82 Cr.P.C. were initiated and subsequently the petitioner was declared as proclaimed person vide order dated 16.03.2017 (Annexure P-7) and the learned trial Court passed specific directions to initiate the PO proceedings against the petitioner.

3. Being aggrieved, the petitioner has filed the present petition.



4. On notice of motion, Ms. Ankita Ahuja, AAG, Haryana and Mr. Shubkarman Kumar, accept notice on behalf of respondent No.1-State and respondent No.2/complainant.

5. The counsel for the petitioner submits that the impugned order dated 16.03.2017 (Annexure P-7) was not passed by the learned trial Court in conformity with the provisions of Section 82 Cr.P.C. and consequently, the said order deserves to be set aside. He further submits that complaint under Section 138 of the Act has been withdrawn by respondent No.2/complainant as the matter has been compromised/settled between the parties as total cheque amount has been paid to the complainant as mentioned in the complaint.

6. The present petition is contested by the counsel for respondent No.2 who submits that the petitioner was evading his service and on this the learned trial Court initiated proceedings against the petitioner under Section 82 Cr.P.C. and after following the due procedure the petitioner was declared as proclaimed person vide order dated 16.03.2017 (Annexure P-7), which is legal and valid and no ground is made out to interfere in the matter under Section 482 Cr.P.C. However, counsel for respondent No.2 has not disputed the fact that in the main criminal complaint filed under Section 138 of the Act, a compromise has been effected between the partes.

7. I have considered the submissions made by counsel for the parties.

8. Section 82 Cr.P.C. reads as follows:-

“82. Proclamation for person absconding. (1) If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot



be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.

(2) The proclamation shall be published as follows:-

(i) (a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;

(b) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village;

(c) a copy thereof shall be affixed to some conspicuous part of the Court- house;

(ii) 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.

(3) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day, in the manner specified in clause (i) of subsection (2), shall be conclusive evidence that the requirements of this section have been complied with, and that the proclamation was published on such day.”

9. All the clauses of Section 82 Cr.P.C. are to be read cumulatively as they are mandatory in nature and non compliance of even one clause would vitiate the entire proceedings initiated under Section 82 Cr.P.C.

10. In the instant case, as per the report of the serving police official, one copy of proclamation was affixed at common place and one copy was appended on the notice board of the Court while the third copy was submitted with the concerned report regarding execution of proclamation. However, from the perusal of the said report it appears that the proclamation was not read publicly in some conspicuous place of town or village where the accused ordinarily resides. In this manner, mandatory requirement of Section 82 (2) (i)



(a) Cr.P.C. has not been complied with, thus, vitiating the entire proceedings under Section 82 Cr.P.C. including the impugned order dated 16.03.2017 whereby the petitioner was declared as proclaimed person.

11. In the light of the above, impugned order dated 16.03.2017 whereby the petitioner was declared as proclaimed person is not in consonance with the mandatory provisions of Section 82 Cr.P.C.

12. Consequently, the present petition is allowed and impugned order dated 16.03.2017 is hereby quashed along with all the subsequent proceedings arising therefrom, qua the petitioner.

(H.S. GREWAL)
JUDGE

19.05.2025
anil

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