



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

134

CRM-M-29757-2025 (O&M)

Date of decision: 28.05.2025

Harpreet Singh

....Petitioner

Versus

Chetan Mohan

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Navraj Singh Mahal, Advocate
for the petitioner.

HARPREET SINGH BRAR J. (Oral)

1. The present petition has been filed under Section 528 of BNSS, 2023/482 Cr.P.C., for quashing of order dated 17.11.2023 passed by learned Judicial Magistrate Ist Class, Jalandhar in criminal complaint bearing NACT No.4864 of 2018, filed under Section 138 read with Section 142 of the Negotiable Instruments Act, 1881 (in short 'the NI Act'), titled as "Chetan Mohan vs Harpreet Singh" whereby the petitioner was declared as proclaimed person.

2. Learned counsel appearing for the petitioner, *inter alia*, contends that a complaint under Section 138 read with Section 142 of the Negotiable Instruments Act was filed against the petitioner on the ground of dishonouring of cheque bearing No.742214 dated 20.06.2018 amounting to Rs.54,000/- issued in favour of the complainant/respondent by the petitioner for arrears of rent and the petitioner was subsequently summoned by the learned trial Court vide



order dated 24.05.2019.

3. Learned counsel for the petitioner further submits that the petitioner was never served with the summons or warrants issued by the learned trial Court, and as a result, he was wrongly declared as proclaimed person on 17.11.2023. Aggrieved by the said impugned order dated 17.11.2023, the petitioner has approached this Court by way of instant petition. It is contended that the impugned order is liable to be set aside on the ground that the mandate of Section 82 of Cr.P.C. has not been followed in its letter and spirit by the trial Court. Learned counsel for the petitioner submits that the petitioner is ready to pay the arrears of rent to the tune of Rs.54,000/- and he has produced a photocopy of demand draft for a sum of Rs.54,000/-, which is taken on record as 'Mark X'. Learned counsel for the petitioner undertakes to hand over the said demand draft of Rs.54,000/- to the respondent/complainant, before the learned trial Court on the date fixed. Lastly, he contends that the petitioner is ready to appear before the trial Court on each and every date of hearing.

4. Having heard learned counsel for the petitioner and after perusing the record of the case with his able assistance, present petition is being decided *in limine* without issuing notice to the respondent in order to save judicial time of the Court and also the litigation costs of the respondent.

5. While the scheme of criminal justice system necessitates curtailment of personal liberty to some extent, it is of the utmost



importance that the same is done in line with the procedure established by law to maintain a healthy balance between personal liberty of the individual-accused and interests of the society in promoting law and order. Such procedure must be compatible with Article 21 of the Constitution of India i.e. it must be fair, just and not suffer from the vice of arbitrariness or unreasonableness.

6. A perusal of the impugned order reveals that the trial Court issued proclamation without recording reasons of its belief that the petitioner has absconded or is concealing himself/herself. This Court in the judgment passed in ***Major Singh @ Major vs. State of Punjab 2023 (3) RCR (Criminal) 406; 2023 (2) Law Herald 1506*** has held that the Court is first required to record its satisfaction before issuance of process under Section 82 of Cr.P.C. and non-recording of the satisfaction itself makes such order suffering from incurable illegality.

7. The sole purpose of issuance of non-bailable warrants or issuance of proclamation is to secure presence of the accused before the trial Court. The petitioner in the present case has himself come forward and has undertaken to settle the disputed amount and appear before the learned trial Court on each and every date of hearing.

8. In view of the aforesaid facts and circumstances, the present petition is allowed and the impugned order dated 17.11.2023, vide which the petitioner was declared proclaimed person as well as all the consequential proceedings emanating therefrom, are hereby set-aside.



9. The petitioner is directed to appear before the learned trial Court within a period of 04 weeks from today and on doing so, he shall be admitted to bail on furnishing bail bonds and surety bonds to the satisfaction of the trial Court, along with costs of Rs.10,000/- to be deposited with All India Pingalwara Chartitable Society, Makdoom Pura Dhobi Mohalla, Jalandhar, for wasting precious time of the Court.

10. The receipt of payment of costs imposed upon the petitioner must be presented before learned trial Court. Learned Court below is directed to grant bail to the petitioner only upon verification of the payment of said costs.

11. However, in case, the petitioner fails to surrender before the learned trial Court within the stipulated time period, the interim protection granted by this Court, shall be deemed to be vacated.

(HARPREET SINGH BRAR)
JUDGE

28.05.2025
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No