

2025:PHHC:104159



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

123

CRM-M-36544-2025 (O&M)

Date of decision: 12.08.2025

Davinder Singh @ Gora

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Shadab Ahmad, Advocate
for the petitioner.

MANISHA BATRA, J. (Oral)

1. CRM-28076-2025

Allowed as prayed for.

Documents are taken on record.

2. CRM-M-36544-2025 (O&M)

The instant petition has been filed by the petitioner seeking quashing of order dated 17.10.2014 (Annexure P-3), passed by the Court of learned Additional Sessions Judge, Ludhiana in case titled as ***State vs. Devinder Singh and others***, arising out of FIR No. 171 dated 27.08.2011, registered under Sections 397, 395, 452, 332, 333, 186, 148 and 149 of IPC at Police Station Sadar Jagraon, District Ludhiana, whereby the petitioner had been declared a proclaimed offender.

3. 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 case. The petitioner was on bail and was regularly appearing before the learned trial Court. However, he absented himself on 22.07.2014 due to noting down a wrong date, consequent to which,

2025:PHHC:104159



his bail was cancelled and non-bailable warrants were issued against him for 06.08.2014. Later on, in search of a job and to earn livelihood, he went abroad and since he could not appear before the learned trial Court, he was declared a proclaimed offender by the learned trial Court. It is further argued that he was never served with any notice/warrants issued by the learned trial Court at his ordinary place of residence. More so, the petitioner had been declared a proclaimed offender 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.

4. Notice of motion.

5. Ms. Ramta Chowdhary, DAG, Punjab, who is present in Court and is ready to argue the matter, accepts notice on behalf of the respondent-State. She has argued that there is no infirmity in the impugned order and the petitioner has rightly been declared a proclaimed offender as he was running away from the process of Court. It is, thus, urged that the petition is liable to be dismissed.

6. I have heard learned counsel for the parties at considerable length and have also gone through the material placed on record.

7. 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 absconder, I am of the considered opinion that the impugned order dated 17.10.2014 suffers from material illegalities and is liable to be quashed with all the consequential proceedings arising therefrom.

2025:PHHC:104159



8. 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 22.08.2014, 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 for 29.08.2014. Since on 29.08.2014, the proclamation was received back unexecuted, the learned trial Court issued fresh proclamation against the petitioner for 18.09.2014. When the case was taken up on 18.09.2014, the proclamation was received executed. However, since the mandatory period of 30 days had not elapsed the case was adjourned to 17.10.2014. First of all, the learned trial Court did not maintain mandatory period of 30 days while issuing proclamation for 18.09.2014. Secondly, on a perusal of the statement of the serving police official, it is revealed that the proclamation was executed only on 12.09.2014, requiring the petitioner to cause his appearance before the trial Court on 18.09.2014, which means that the petitioner was not granted mandatory period of 30 days to cause his appearance before the learned trial Court. Hence, the same was in clear violation of the provisions of Section 82(1) Cr.P.C., as per which, a specified time of not less than 30 days is required to be given to the accused from the date of publishing such proclamation which is mandatory in nature. Reliance in this regard can be placed upon ***Gurappa Gugal and others Vs. State of Mysore : 1969 CriLJ 826*** and ***Shokat Ali Vs. State of Haryana : 2020(2) RCR (Criminal) 339***. Further, while adjourning the case to 17.10.2014 to complete the mandatory period of 30 days, the learned trial Court failed to consider the fact that it could not have extended the time by simply adjourning the case as a fresh proclamation was required to be published once the period between

2025:PHHC:104159



issuance of publication of proclamation and the specified period of hearing was less than 30 days. Reference in this context can be made to ***Dilbagh Singh Vs. State of Punjab (P&H) : 2015 (8) R.C.R. (criminal) 166.***

9. Further, a perusal of the statement of the serving police official reveals that the proclamation was not publically read over in some conspicuous place of the town or village in which the petitioner was supposed to be residing. As per Section 82 (2) of Cr.P.C. for publication, the proclamation has to be first publicly read in some conspicuous place of the town or village in which the accused ordinarily resides; then the same has to be affixed to some conspicuous part of the house or homestead in which the accused ordinarily resides or to some conspicuous place of such town or village and thereafter a copy of the proclamation has to be affixed to some conspicuous part of the Court-house. The three sub-clauses (a)-(c) in Section 82 (2)(i) of the Cr.P.C. are conjunctive and not disjunctive, which means that there would be no valid publication of the proclamation unless all the three modes of publication are proved. Reliance in this regard can be placed upon ***Pawan Kumar Gupta Vs. The State of W.B. : 1973 CriLJ 1368.***

10. 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 17.10.2014 (Annexure P-3), passed by the Court of learned Additional Sessions Judge, Ludhiana in case titled as ***State vs. Devinder Singh and others***, arising out of FIR No. 171 dated 27.08.2011, registered under Sections 397, 395, 452, 332, 333, 186, 148 and 149 of IPC at Police Station Sadar Jagraon, District Ludhiana, whereby

2025:PHHC:104159



the petitioner had been declared a proclaimed offender, is quashed with all consequential proceedings arising therefrom.

11. 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 04 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.

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

13. 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.

14. However, this relief shall be subject to payment of cost of Rs. 10,000/-, to be deposited by the petitioner with the Punjab and Haryana High Court Employees' Welfare Association, Chandigarh. The payment of this cost shall be a pre-requisite for the learned trial Court to accept the personal/surety bonds of the petitioner.

12.08.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No