



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

CRM-M-45354-2023
Date of decision: 29.01.2025

Abhishek JindalPetitioner

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Shivansh Malik, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 482 of Cr.P.C. seeking quashing of impugned order dated 05.03.2020 passed by the learned Judicial Magistrate 1st Class, Rohtak (Annexure P-8) in complaint i.e. NACT/426/2018 titled as 'Krishna Agriculture Implements Vs. Abhishek Jindal' filed by respondent No.2 under Section 138 of the Negotiable Instruments Act, 1881 (in short 'the Act') vide which the petitioner has been declared as proclaimed person and all other consequent proceedings arising therefrom.

2. On 12.09.2023, the following order was passed:-

'Learned counsel for the petitioner has submitted that the petitioner has been wrongly declared as proclaimed person and the subject matter of the present case is pertaining to complaint under Section 138 of the N.I. Act and on getting knowledge of the aforesaid proclamation order, the petitioner is now ready and willing to surrender before



CRM-M-45354-2023

-2-

the learned trial Court within a period of three weeks from today and he may be protected in the meanwhile.

Notice of motion for 07.12.2023.

In view of the specific statement given by the learned counsel for the petitioner on behalf of the petitioner, he is directed to surrender before the learned trial Court within a period of three weeks from today. Till the time the petitioner surrenders, no coercive steps shall be taken against him.

Thereafter, in case the petitioner files any application for grant of bail then the same shall be considered and decided as expeditiously as possible and preferably within four working days thereafter.

In the meantime, further proceedings under Section 174-A IPC shall remain stayed.'

3. On 07.12.2023, the following order was passed:-

'Learned counsel for the petitioner submitted that in pursuance of the order passed by this Court on 12.09.2023, the petitioner has already surrendered before the learned trial Court and he has been admitted to bail. He has furnished a photocopy of the order dated 18.09.2023 passed by the JMIC, Rohtak in this regard and the same is taken on record.

Learned State counsel seeks some time to file reply.

On his request, adjourned to 21.02.2024.'

4. The learned State counsel supports the order passed by the learned trial Court by contending that the petitioner did not put in appearance before the trial Court intentionally and deliberately and, therefore, having left with no other option, proclamation was issued to secure his presence.

5. I have heard learned counsel for the parties and perused the record



CRM-M-45354-2023

-3-

of the case with their able assistance and with the consent of parties, the matter is taken up for final disposal.

6. 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.

7. 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. 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. In the judgment passed by this Court in ***Sonu Vs. State of Haryana 2021 (1) RCR (CrI.) 319***, it has been held that the conditions specified in Section 82 (2) Cr.P.C. for the publication of a proclamation against an absconder are mandatory. Any non-compliance therewith cannot be cured as an 'irregularity' and renders the proclamation and proceedings subsequent thereto a nullity.

8. 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

**CRM-M-45354-2023****-4-**

petitioner in the present case has himself come forward and has undertaken to appear before the trial Court on each and every date.

9. In view of the aforesaid facts and circumstances, the present petition is allowed and the impugned order dated 05.03.2020 (Annexure P-8) vide which the petitioner was declared as proclaimed person as well as the proceedings if any under Section 174-A of IPC, are hereby set aside subject to payment of Rs.10,000/- as costs to be deposited with the Poor Patient Welfare Fund, PGIMER, Chandigarh, for wasting precious time of the Court.

10. The receipt of payment of costs imposed must be presented before the learned trial Court. The learned Court below is directed to verify the payment of said costs.

(HARPREET SINGH BRAR)
JUDGE

29.01.2025*Neha*

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