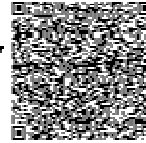


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**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

122

CRM-M-49354-2024 (O&M)

Date of decision: 03.04.2025

Navjit Kaur @ Navjeet Kaur

...Petitioner

Versus

Shashi Kapoor and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Ms. Harpreet S. Rakhra, Advocate
for the petitioner.

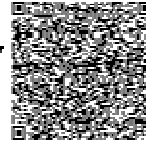
MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioner under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 for quashing of complaint bearing No. COMI/545/2018, titled as ***Shashi Kapoor vs. Jaspal Singh and others***, filed under Sections 420 and 120-B of IPC (Annexure P-1), pending before the Court of learned Judicial Magistrate First Class, Jalandhar as well as for quashing of order dated 23.05.2024 (Annexure P-10), whereby the petitioner had been declared a proclaimed person.

2. Vide order dated 14.01.2025, the petitioner has restricted her claim only to the extent of quashing of order dated 23.05.2024 (Annexure P-10).

3. The present petition has been filed by the petitioner on the grounds and it has been argued by her counsel that the petitioner has been falsely implicated in the aforementioned complaint. She 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. She is ready to join the

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Court proceedings. Hence, it is urged that the impugned order is liable to be set aside.

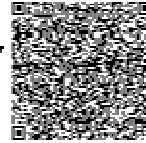
4. I have heard learned counsel for the petitioner at considerable length and have also gone through the material placed on record.

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 23.05.2024 suffers from material 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 22.03.2024, since the non-bailable warrants issued against the petitioner were received back unserved, the learned trial Court had ordered for issuance of proclamation against her for 23.05.2024. A bare perusal of this order 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, a perusal of the statement of the serving police official reveals that the proclamation was not read over in some conspicuous place of the town or village in which the petitioner was supposed to be residing. As

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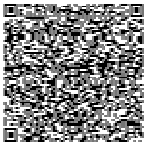
per Section 82 (2) of Cr.P.C. for publication, the proclamation has to be first publicly read in some conspicuous place of the town or village in which the accused ordinarily resides; then the same has to be affixed to some conspicuous part of the house or homestead in which the accused ordinarily resides 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*.

8. 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 **partly** allowed and the impugned order dated 23.05.2024 (Annexure P-10), passed by the learned trial Court in the aforementioned case, 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, she 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 her on bail, subject to her furnishing fresh personal/surety bonds to its satisfaction.

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

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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.

13. However, this relief shall be subject to payment of cost of Rs. 5,000/-, to be deposited by the petitioner with the District Legal Services Authority, Jalandhar.

03.04.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No