



CRM-M-55942-2022 (O&M)

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

Sr. No.260

CRM-M-55942-2022 (O&M)

Date of decision : 07.05.2025

Bikramjit Singh @ Bikram Singh

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Pushp Jain, Advocate for the petitioner.

Mr. Durgesh Garg, AAG, Punjab.

KIRTI SINGH, J. (Oral)

1. The prayer in the present petition filed under Section 482 of Cr.P.C. is for quashing of order dated 26.02.2021 (Annexure P-2) passed by the learned SJM, Bholath, vide which the petitioner was declared as proclaimed offender in case FIR No.02 dated 17.01.2019, under Sections 376, 387 and 328 IPC, registered at Police Station Bholath, District Kapurthala.

2. The case of the petitioner is that abovesaid FIR was lodged on the basis of complaint made by the complainant, on the false allegations that petitioner had committed rape with her by giving some intoxicant substance and taken huge amount from her under threat perception. He submits that the petitioner left the country before registration of the FIR and was in Australia and was never served on his foreign address. The learned Trial Court without complying with the provisions under Sections 82 and 105 Cr.P.C., vide order dated 20.08.2016 (Annexure P-6) declared the petitioner as a proclaimed offender. Counsel for the petitioner further submits that to show his *bona fide* the petitioner has joined the investigation on 12.02.2023 and appearing on each and every date.



3. *Per contra*, learned State counsel, has submitted that the petitioner, despite the proclamation, has failed to appear before the trial Court and has been rightly declared a proclaimed offender vide the impugned order and in addition, the petitioner is evading the process of Court which is highly deprecated on her part and in view of above, he does not deserve the concession.

4. Heard the submissions made by respective learned counsels for the parties.

5. According to the averments, the petitioner had left for Australia before registration of the aforesaid FIR and no efforts were made to serve the petitioner at his foreign address.

6. A person cannot be said to “*abscond*” or “*evade*” the execution of warrant when he had gone to a distant place before the issue of the warrant. Dependence can be made on the judicial dictum rendered in the case of “*M.S.R. Gundappa v. State of Karnataka*” (1977 Cr LJ NOC 187), wherein it was held that a person who had gone abroad even before the issue of the warrant of arrest cannot be said to be absconding or concealing himself with the intention to disrupt the execution of that warrant.

7. Reliance can also be placed upon the judgment of this Court rendered in CRM-M-1513-2009 tiled as “*Mehar Singh And Anr. vs State of Punjab*” wherein it was held as under:

“In the present case, since the petitioners were already residing in Canada before the registration of FIR in question i.e. since the year 1997, there was no occasion for them to conceal themselves or abscond. A perusal of order dated 7-10-2008 (Annexure P-10) and order dated 21-12-2007 (Annexure P- 4) does not reveal that the petitioners were ever attempted to be served in Canada especially when there was no material on record that the petitioners had left the country after the registration of FIR in question with a view to abscond or conceal themselves. Rather in



the inquiries conducted by the police, the petitioners were found to be innocent because the alleged papers in question were prepared in Canada. Thus, the petitioners were declared proclaimed offenders in violation of Section 82, Criminal Procedure Code. Accordingly, the impugned order dated 7-10-2008 (Annexure P-10), whereby the petitioners were declared proclaimed offenders, is set aside.”

8. Learned trial Court has not made any effort to effect personal service of the petitioner through the embassy of India located in the concerned country where the petitioner was residing at the relevant time. Thus, making it clear that the impugned order was not passed in consonance with the mandate of Sections 82 & 105 of Cr.P.C. and is not sustainable in the eyes of law.

9. Therefore, in light of the afore-said judicial pronouncements and discussions made hereinabove, this Court is of the firm view that the impugned order dated 26.02.2021 (Annexure P-2), vide which the petitioner has been declared proclaimed offender, is not sustainable in the eyes of law.

10. In view of the above, the present petition stands allowed and the impugned order dated 26.02.2021 (Annexure P-2) is set aside/quashed **subject to payment of Rs.50,000/- to be deposited in Poor Patient Welfare Fund, PGIMER, Chandigarh.** In case he fails to deposit the aforesaid cost, this order would be of no avail to the petitioner.

11. Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

07.05.2025

Kapil

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No