

CRM-M-53086 of 2025 (O&M) -1-

S. No.132

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-53086 of 2025 (O&M)
Date of Decision:22.09.2025

Lalit Kumar

.....Petitioner

Vs.

Union Territory, Chandigarh and another

.....Respondents

CORAM:- HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present:- Mr. Risham Raag Singh, Advocate
for the petitioner.

Mr. Vaibhav Mittal, APP, UT, Chandigarh
for the respondents.

Yashvir Singh Rathor, J. (Oral)

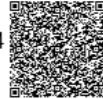
1. Present petition has been instituted under Section 482 Cr.P.C/528 of BNSS, 2023 for quashing order dated 18.07.2025 (Annexure P.19) passed by learned JMIC, UT, Chandigarh, whereby the petitioner has been declared as a proclaimed person in case No.PCH/1985/2022 titled '**State of UT Chandigarh Vs. Lalit Kumar etc.** in case FIR No.21 dated 11.02.2022 registered under Sections 279 and 427 IPC at Police Station Mani Majra, Chandigarh and all the consequential proceedings arising therefrom.

2. Upon notice, the Counsel for UT, has appeared. Learned counsel for the parties have been heard and material placed on the file has been perused.

3. Learned counsel for the petitioner argued that petitioner has been wrongly declared as a proclaimed person. He never received any summons/ warrants from the trial Court and serious efforts were not made by the trial Court



to secure his presence. On perusal of the paper book, it is revealed that during the proceedings of case FIR No.32 dated 12.02.2022 as afore-said, warrants of arrest against petitioner Lalit Kumar were directed to be issued initially vide order dated 07.12.2023, and the said order was repeated on various subsequent dates due to receipt of the warrants of arrest as unexecuted. In none of the orders passed by the trial Court, it is mentioned as to what was the report on the warrants of arrest. On 09.09.2024, warrant of arrest was received back unexecuted and simply by recording satisfaction that the accused cannot be served through non bailable warrants, proclamation under Section 82/83 Cr.P.C was ordered to be issued. Learned counsel for the petitioner contended that proclamation under Section 82/83 Cr.P.C was ordered to be issued for various dates but the same was either not issued or was not received back and lastly, the proclamation was ordered to be issued for 14.07.2025 vide order dated 01.05.2025 and serving constable was summoned to make statement on 31.05.2025. On 31.05.2025, the proclamation was received back effected and the statement of serving constable was recorded and the case was adjourned to 14.07.2025 for awaiting appearance of the accused. However, on 14.07.2025, the Presiding Officer was on leave and file was put up before Duty Magistrate and case was adjourned to 16.07.2025 for appearance of the accused on which date also, the Presiding Officer on leave and the case was again adjourned for appearance of accused to 18.07.2025. On 18.07.2025, petitioner was declared a Proclaimed Person. Learned counsel contended that no proclamation had been issued against the accused for 18.07.2025 and as such, he did not have any knowledge that he was required to appear before the Court on



18.07.2025 and impugned order dated 18.07.2025, vide which he has been declared Proclaimed Person is thus illegal and nonest.

4. Learned counsel further contended that as per order dated 31.05.2025, proclamation issued against accused was received back executed and statement of serving constable was recorded in which he stated that the accused was not present at the house and thereafter, he had pasted one copy of the proclamation at the given address and one copy at the notice Board of the Court. However, the proclamation was not publicly read in some conspicuous place of the town where the accused resided and it was thus violation of provisions of Section 82(2)(i)(a) of Cr.P.C and on this score also, proclamation is invalid and a nullity and proceedings under Section 82 of Cr.P.C are thus liable to be quashed. In support of his contentions, learned counsel has placed reliance upon 2022(1) Law Herald 219 – **Rahul Dureja and another Vs. State of Punjab**, 2021(1) RCR (Criminal) 493 – **Harvinder Singh Vs. State of Haryana and another**, 2024(1) Law Herald 859 – **Mahender Kumar Vs. Housing Development Finance Corporation Ltd.**, 2024(1) Law Herald 291 – **Ramandeep Singh Sangha @ Ramna Sangha Vs. State of Punjab**, and 2024(2) RCR (Criminal) 5- **Sukhjinder Singh Vs. State of Punjab and another**.

5. On the other hand, learned Counsel for UT, Chandigarh has argued that the petitioner could not be served when his non-bailable warrants were issued and thereafter, proclamation under Section 82 Cr.P.C. was ordered to be issued and he was declared Proclaimed Person. Learned State Counsel has contended that the impugned order is well reasoned and speaking and does not call for any interference and petition deserves to be dismissed.



6. Before proceeding further, relevant orders dated 09.09.2024, 01.05.2025, 31.05.2025, 14.07.2025, 16.07.2025 and 18.07.2025 are reproduced as under:-

“Warrants of arrest issued against accused received back unexecuted. Notice under Section 446 of Cr.P.C issued to his surety received back unserved. This Court is satisfied that service of accused cannot be effected through NBW. Let, proclamation warrants are ordered to be issued against the accused Lalit Kumar. Report of Serving Constable is awaited for 01.10.2024 and thereafter appearance of the accused be awaited for 02.12.2024.

Date of Order: 09.09.2024

Judicial Magistrate Ist Class
CHD/UID No.PB0495”

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Proclamation warrants issued against accused Lalit Kumar not received back. Fresh proclamation warrants are ordered to be issued against the accused Lalit Kumar. Report of Serving Constable is awaited for 31.05.2025 and thereafter appearance of the accused be awaited for 14.07.2025.

Date of Order: 01.05.2025

Judicial Magistrate Ist Class
CHD/UID No.PB0495”

“Proclamation warrants issued against accused Lalit Kumar received back executed. Separate statement of serving Constable Umesh Kumar got recorded vide which to the effect that he visited



the given address on 03.04.2025 but accused was not found there. He further stated that he has pasted one copy of proclamation at the given address and one copy pasted at notice board of District Courts, Chandigarh. Proclamation as Ex.PA and his report as Ex.PB. Now, to come up on the date already fixed i.e. 14.07.2025 for awaiting appearance of accused Lalit Kumar.

Date of Order: 31.05.2025

Judicial Magistrate Ist Class
CHD/UID No.PB0495”

“File put up today before me being Duty Magistrate as Ld. Presiding Officer Dr. Ambika Sharma, JMIC, Chandigarh is on leave. Now, case is adjourned to 16.07.2025 for the purpose already fixed. File be sent back to the concerned Court immediately.

Date of Order: 14.07.2025

Judicial Magistrate Ist Class (Duty)
CHD/UID No.PB0679

“File put up today before me being Duty Magistrate as Ld. Presiding Officer Dr. Ambika Sharma, JMIC, Chandigarh is on leave. Now, case is adjourned to 18.07.2025 for the purpose already fixed. File be sent back to the concerned Court immediately.

Date of Order: 16.07.2025

Judicial Magistrate Ist Class (Duty)
CHD/UID No.PB0667”

“Today the case was fixed for awaiting appearance of accused but accused Lalit Kumar has not appeared before the Court.

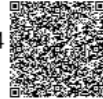


Statutory period of 30 days has elapsed. Accordingly, accused Lalit Kumar is hereby declared as Proclaimed Person. An intimation in this regard be sent to SHO concerned for making entry in the relevant register. Notice to concerned Collector and SHO be issued for 30.10.2025 to submit report regarding the property owned by the accused for initiating the proceedings against him under Section 83 Cr.P.C. Notice to surety be also issued for the date fixed. Notice to complainant and concerned IO mentioned in the list of witnesses be also issued for the date fixed.

Date of Order: 18.07.2025

Judicial Magistrate Ist Class (Duty)
CHD/UID No.PB0495”

7. A Coordinate Bench of this Court while deciding CRM-M-41656-2023 titled ***Pardeep Kumar Vs. State of Haryana*** vide judgment dated 23.8.2023 has held that before issuance of proclamation under Section 82 of Cr.P.C., the Court must deliberate on its previous efforts to secure presence of the accused through other legally permissible means. These efforts encompass issuance of summons and the execution of bailable and/or non-bailable warrants against the accused. It is incumbent upon the Court to ascertain that individual in question has indeed absconded or is concealing himself to evade execution of warrants of arrest. It has been further held that phrase, ‘reasons to believe’ as articulated in Section 82 of Cr.P.C. signifies that the Court must derive its belief from the available evidence and material that the concerned person has absconded or is



concealing himself to evade the execution of warrants of arrest. It has been further held that once proclamation is issued, it must be set forth in the proclamation as to where and when the concerned individual must present himself. A designated location and time must be stipulated. Importantly, the specific date and time for appearance should not be less than 30 days from the date of publication of the proclamation.

8. A perusal of order dated 09.09.2024 shows that the warrant of arrest issued against the accused was received back unexecuted and prior to that also, the warrants of arrest were received back unexecuted but the reasons as to why the same have not been executed is not mentioned in any of the order. After that, the warrant issued for 09.09.2024, was received back unexecuted and the Court recorded its satisfaction that the accused cannot be served through non-bailable warrants and ordered issuance of proclamation under Section 82 Cr.P.C. However, no satisfaction was recorded by the trial Magistrate that accused has either absconded or is concealing himself to evade the warrants and that he cannot be served in ordinary manner and without recording satisfaction to this effect, the proceedings under Section 82 Cr.P.C. could not have been initiated against the accused. Besides this, the proclamation was finally issued for 14.07.2025 and after the statement of serving constable was recorded on 31.05.2025, case was adjourned to 14.07.2025 for awaiting appearance of the accused. However, on 14.07.2025, Presiding Officer was on leave and file was put up before Duty Magistrate and case was adjourned to 16.07.2025 for the same purpose, on which date also, the Presiding Officer was on leave and case was adjourned to



18.07.2025 for the same purpose and accused was ultimately declared a proclaimed person on 18.07.2025. However, no proclamation had been issued for 18.07.2025, which infact, had been issued for 14.07.2025 but on that date, he was not declared a proclaimed person. In this manner, accused did not have any knowledge that he was required to appear before the Court on 18.07.2025, as no proclamation had been issued against him for that date and he was, thus, misled and proper procedure, thus, has not been followed by not mentioning the designated location and time, where he was supposed to appear.

9. In the present case, proclamation was issued for various dates but the same was not effected and finally the proclamation was ordered to be issued for 14.07.2025 vide order dated 01.05.2025 and serving constable was summoned to make statement on 31.05.2025. On 31.05.2025, the proclamation was received back executed. In his statement, serving constable stated that he had visited the house of accused but he was not found present there and thereafter, he pasted one copy of proclamation at the given address and one copy at the notice board of the Court. However, the proclamation was not read publicly at some conspicuous place of the town, where the accused ordinarily resided. A Coordinate Bench of this Court in ***Rahul Dureja's case (supra)***, has held that if there is non-compliance of mandatory provisions of Section 82(2)(i)(a) of Cr.P.C. and proclamation is not read publicly in same conspicuous place of the town or village where the accused ordinarily resides, the accused is deprived of the knowledge of proclamation and on this score, the proclamation notice is liable to be quashed. In ***Harvinder Singh's case (supra)***, it has been further held that if proclamation is



not read publicly in the village where accused resided, it is not an irregularity but it renders proclamation and subsequent proceedings as nullity. On this score also, the proceedings initiated under Section 82 Cr.P.C. against the petitioner are invalid.

10. As a result of aforesaid discussion, I am of the considered opinion that proper procedure has not been followed by the trial Court while declaring petitioner a proclaimed person and the impugned order, thus, suffers from material irregularities and illegalities and the same is, thus, not sustainable and is liable to be set aside and accordingly, the present petition is accepted and the impugned order dated 18.07.2025 (Annexure P-19), vide which, the petitioner was declared proclaimed person is set aside.

11. Pending misc. applications(s), if any, shall also stand disposed of.

(YASHVIR SINGH RATHOR)
JUDGE

September 22, 2025
Renu/Priyanka Thakur

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No