



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

CRM-M-57370-2024
Date of decision: 10.01.2025

Harpinder Pal Singh @ Lucky

...Petitioner

Versus

State of Punjab and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. S.S. Sarwara, Advocate for
Mr. Kulwinder Singh, Advocate for the petitioner.

Mr. Inderjeet Singh Ladher, DAG, Punjab.

KARAMJIT SINGH, J. (ORAL)

1. The present petition under Section 528 of BNSS is filed by the petitioner seeking quashing of order dated 11.02.2019 (Annexure P-1) passed by the Court of Sub Divisional Judicial Magistrate, Phagwara, vide which the petitioner has been declared as proclaimed person in criminal case having FIR No.5 dated 15.01.2017, registered under Sections 323, 325, 148, 149 IPC (Section 201 IPC added later on) in Police Station Satnampura, District Kapurthala.

2. The counsel for the petitioner inter alia submits that at the relevant time, the petitioner was residing in Italy and to this effect report was received by the learned trial Court, as is evident from Annexure P-4 which is order dated 03.10.2018. The counsel for the petitioner further submits that no notice, summons or warrants were served to the petitioner through Indian Embassy, situated in Italy. That thus, the proper procedure



provided under Section 105 Cr.P.C. was not followed by the learned trial Court before passing the impugned order. It is further submitted that now parties have effected compromise and the concerned compromise deed is Annexure P-3.

3. The present petition is resisted by the State counsel who submits that there is no illegality or infirmity of order dated 11.02.2019 (Annexure P-1).

4. From the perusal of order Annexure P-4 dated 03.10.2018 passed by the learned trial Court, it could be easily made out that report was received by the said Court to the effect that the petitioner had gone abroad. Thus, it is evident that at the relevant time, the petitioner was not available in India and had gone to foreign country. However, the trial Court did not make any efforts to serve the petitioner through the Indian Embassy situated in concerned country. In this manner, the trial Court passed order dated 11.02.2019 (Annexure P-1) in breach of the provision of Section 105 Cr.P.C. Thus, the impugned order Annexure P-1 being not passed in consonance with the mandatory statutory provision, the same deserves to be set aside.

5. For the foregoing reasons, the present petition is allowed and order dated 11.02.2019 (Annexure P-1) passed by the Court of Sub Divisional Judicial Magistrate, Phagwara, is hereby set aside.

10.01.2025

Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No