

2025:PHHC:117765



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

259-1

CRM-M-58079-2024 (O&M)

Date of decision: 01.09.2025

Jasbir Singh Jandu and another

... Petitioners

VS.

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. SS Cheema, Advocate for the petitioners.

Mr. Jasjit Singh, DAG, Punjab.

Mr. Ayush Sarna, Advocate for respondent No.2.

AMAN CHAUDHARY, J. (Oral)

1. The present petition has been filed under Section 582 BNSS for quashing of order dated 07.07.2015, Annexure P-2 passed by the learned Chief Judicial Magistrate, Ludhiana, whereby the petitioner has been declared as proclaimed offender in FIR No.08, dated 28.04.2014, registered under Sections 420, 177, 120-B IPC at Police Station NRI, District Ludhiana Commissionrate.

2. Learned counsel submits that the FIR in question was registered by respondent No.2, who is the sister of the petitioners and against their mother who though has since passed away. The petitioners are British citizens, Annexures P7 & P10 and petitioner No.1 is residing in UK since 1985 and the other 1980 and at the time of lodging of the FIR, both were not

in India and in the FIR the address was mentioned of England. The Police had not complied with provisions of Sections 105 & 105B Cr.P.C to get the summons or warrants against them so that they could have joined investigation in the present case, however, an application was filed declaring them proclaimed offender under Section 82 Cr.P.C. A further reference is made to a Notification issued by the Government of India Ministry of Home Affairs, IS Division-II:Legal Cell New Delhi, dated the 11th Feb, 2009, laying down comprehensive guidelines in this regard of reciprocal arrangements to be made by Central Government with the Foreign Governments with regard to the service of summons/warrants/judicial processes. During pendency, the compromise has been arrived at on 08.10.2024 (Annexure P4), pursuant where to, petition CRM-M- 58114-2024 has been filed for quashing of the FIR on that basis. Further that the absence of the petitioners was neither wilful nor deliberate and on account of the reason aforesaid. To fortify his submissions, learned counsel for the petitioners places reliance on the judgments of this Court in **Hardev Kaur vs. State of Punjab**, 2018(2) Law Herald 1256, **Jasbir Kaur vs. State of Punjab and another**, CRM-M-25115-2022, decided on 02.06.2022, **Parminder Kaur Motay vs. State of Punjab and another**, CRM-M-49863-2022, decided on 31.10.2022 and **Lakha Singh vs. State of Punjab and another**, CRM-M-23433-2023, decided on 29.09.2023.

3. Learned State counsel and learned counsel for respondent No.2 oppose the same by submitting that the impugned order is legal and valid and has been rightly passed by the trial Court on account of non-appearance of the petitioners, however, affirms the factum of compromise.

4. Heard the learned counsel and perused the file.

5. It is apposite to make a reference to the judgments of this Court in the cases of **Jasbir Kaur** (supra) and **Parminder Kaur Motay** (supra), wherein the petitioners, who were residing in abroad, while proclamation proceedings had been initiated in India and the prescribed procedure was not followed, as such, the orders of proclamation were set aside.

6. In **re: Hardev Kaur's** case (supra), the order of proclamation was set aside in a case, where the compromise had been arrived at between the parties and no objection had been given by the complainant for setting aside the same.

7. In **re: Lakha Singh's** case (supra), the mandatory procedure as envisaged under Sections 82 and 105 Cr.P.C. having not been followed, it was held that absence could not be termed to be willful or deliberate and compromise had been arrived at and petition for quashing had been allowed.

8. Adverting to the facts of the present case, the reasons for non-appearance of the petitioners were justified particularly in view of the fact that they were declared proclaimed offender without compliance of mandatory provisions of Sections 82 and 105 CrPC in letter and spirit. Moreover, at the time of lodging of present FIR, the petitioners were residing in UK, thus, their absence was neither wilful nor deliberate. Prior to the issuance of warrant, a person cannot be terms to be an “abscond” or “evade” particularly when he had gone to a distant place. Even the dispute between the parties are going to be settled amicably based on which, petition CRM-M-58114-2024 for quashing the FIR in question has already been filed.

9. Considering the facts and circumstances, the judgments referred

to hereinabove, the impugned order dated 07.07.2015, Annexure P-2, is hereby set aside.

10. The present petition is allowed accordingly.

(AMAN CHAUDHARY)
JUDGE

01.09.2025
ashok

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