



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-55829-2025 (O&M)
Date of Decision : 28.11.2025

SUMIT

...Petitioner

VERSUS

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. Arun Luthra, Advocate
for the petitioner.

AARADHNA SAWHNEY, J. (ORAL)

CRM-No.47015-2025

This is an application filed under Section 528 of BNSS to place
on record zimni orders as Annexure P-12.

For the reasons mentioned in the application, the same is
allowed, subject to all just exceptions. Zimni orders (Annexure P-12) are
taken on record.

CRM-M-55829-2025

Petitioner has filed the present petition under Section 528 BNSS
seeking quashing of FIR No.605 dated 26.09.2022, under Section 174-A IPC
(now Section 209 BNS), arising out of FIR No.620 dated 02.09.2021,
registered against him under Sections 120-B, 272, 420, 487, 489 IPC and
Sections 63, 65 of Copy Right Act and Section 103 of Trade Mark Act, Police
Station Kharkhoda, District Sonipat.



2. Relevant facts as emerging from the documents on record be noticed hereinbelow:-

On 02.09.2021, FIR No.620 of 2021 u/s 120-B, 272, 420, 487, 489 IPC and Sections 63, 65 of Copy Right Act and Section 103 of Trade Mark Act was registered against petitioner and others at the instance of Mohammad Asharful Alam, son of Mohammad Harmuj.

Learned counsel for the petitioner submits that petitioner, whose name did not figure in FIR was falsely implicated in the aforesaid case. He was not aware of the pendency of the said case against him. Resultantly, he could not appear before the Court and on account of his non-appearance, proclamation proceedings were initiated under Section 82/83 Cr.P.C. by the learned trial Court vide order dated 21.07.2022. Subsequently, on 22.08.2022, he (p) was declared as '*Proclaimed Offender*' leading to registration of FIR No.605 dated 26.09.2022 u/s 174-A IPC. It is further the submission of learned counsel that as and when petitioner came to know about the pendency of FIR No.620 dated 02.09.2021, he immediately appeared before the learned trial Court and was granted the concession of bail. Even in FIR No. 605/2022, he has been released on bail.

While assailing the Proclamation proceedings, learned counsel for the petitioner submits that a bare perusal of the interim orders passed by the learned trial Court (appended along with CRM-No.47015-2025) would reveal that warrants of arrest issued to procure presence of petitioner were received back unserved/unexecuted on several occasions. There is nothing on record to suggest that despite being in know-how of the criminal proceedings pending against him, petitioner deliberately did not appear in the Court.



Further, without recording any such observation, learned trial Court simply on an application moved by learned Public Prosecutor initiated Proclamation proceedings against petitioner, vide order dated 25.05.2022. The said order reads as under:-

“Warrant of arrest issued against accused Sumit received back unexecuted. An application for issuance of proclamation against accused Sumit has been moved. Heard. Keeping in view facts and circumstances mentioned in the application, same stands allowed. Proclamation against accused be issued for 21.07.2022.”

It is further the submission of learned counsel that no date for appearance of the accused in the Court was fixed by the learned Trial Magistrate, who on the next date of hearing i.e. on 21.07.2022, being conscious of the fact that period of 30 days from publication of the proclamation proceedings and appearance of the accused was not over, adjourned the case for 22.08.2022, when petitioner was declared as ‘*Proclaimed Offender*’. Thus, as per learned counsel, it is clear that the Proclamation proceedings have not been initiated in accordance with the procedure so laid down u/s 82/83 Cr.P.C.

In support of his contentions, learned counsel places reliance upon following judgments:-

- 1. Ashok Kumar vs. State of Haryana and another 2013(4) RCR (Criminal) 550**
- 2. CRM-M-40897-2019 titled as Prit Pal Singh vs. State of Punjab and others, decided on 03.02.2020**

4. I have heard learned counsel for the petitioner and have carefully gone through the material available on record.



5. At the outset, it needs to be ascertained as to whether the procedural requirements of Section 82 Cr.P.C. were complied with by learned Magistrate before declaring petitioner '*Proclaimed Person*'.

In this context, before proceeding further, it would be appropriate to refer to a judgment of Coordinate Bench of this Court in **CRM-M-23777-2020** titled ***Sonu V/s. State of Haryana, decided on 06.10.2020***, wherein the essential requirements of Section 82 Cr.P.C. for issuance and publication of proclamation against an absconder and declaring him as proclaimed person/offender were discussed as under:

(i) *Prior issuance of warrant of arrest by the Court is sine qua non for issuance and publication of the proclamation and the Court has to first issue warrant of arrest against the person concerned. (See Rohit Kumar Vs. State of Delhi : 2008 CrI. J. 2561).*

(ii) *There must be a report before the Court that the person against whom warrant was issued had absconded or had been concealing himself so that the warrant of arrest could not be executed against him. However, the Court is not bound to take evidence in this regard before issuing a Proclamation under Section 82 (1) of the Cr.P.C.. (See Rohit Kumar Vs. State of Delhi : 2008 CrI. J. 2561).*

(iii) *The Court cannot issue the Proclamation as a matter of course because the Police is asking for it. The Court must be prima facie satisfied that the person has absconded or is concealing himself so that the warrant of arrest, previously issued, cannot be executed, despite reasonable diligence. (See Bishundayal Mahton and others Vs. Emperor : AIR 1943 Patna 366 and Devender Singh Negi Vs.State of U.P. : 1994 CrI LJ (Allahabad HC) 1783).*

(iv) *The requisite date and place for appearance must be specified in the proclamation requiring such person to appear*



on such date at the specified place. Such date must not be less than 30 clear days from the date of issuance and publication of the proclamation. (See Gurappa Gugal and others Vs. State of Mysore : 1969 Cri LJ 826 and Shokat Ali Vs. State of Haryana : 2020(2) RCR (Criminal) 339).

(v) Where the period between issuance and publication of the proclamation and the specified date of hearing is less than thirty days, the accused cannot be declared a proclaimed person/offender and the proclamation has to be issued and published again. (See Dilbagh Singh Vs. State of Punjab (P&H) : 2015 (8) R.C.R. (criminal) 166 and Ashok Kumar Vs. State of Haryana and another : 2013 (4) RCR (Criminal) 550).

(vi) *The Proclamation has to be published in the manner laid down in Section 82 (2) of the 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. (See Pawan Kumar Gupta Vs. The State of W.B. : 1973 CriLJ 1368). Where the Court so orders a copy of the proclamation has to be additionally published in a daily newspaper circulating in the place in which the accused ordinarily resides. Advisably, proclamation has to be issued with four copies so that one each of the three copies of the proclamation may be affixed to some conspicuous part of the house or homestead in which the accused ordinarily resides, to some conspicuous place of such town or village and to some*



conspicuous part of the Court-house and report regarding publication may be made on the fourth copy of the proclamation. Additional copy will be required where the proclamation is also required to be published in the newspaper.

(vii) *Statement of the serving officer has to be recorded by the Court as to the date and mode of publication of the proclamation. (See Birad Dan Vs. State : 1958 CriLJ 965).*

(viii) *The Court issuing the proclamation has to make a statement in writing in its order that the proclamation was duly published on a specified day in a manner specified in Section 82(2)(i) of the Cr.P.C.. Such statement in writing by the Court is declared to be conclusive evidence that the requirements of Section 82 have been complied with and that the proclamation was published on such day. (See Birad Dan Vs. State : 1958 CriLJ 965).*

(xi) *The conditions specified in Section 82(2) of the Cr.P.C. for the publication of a Proclamation against an absconder are mandatory. Any non-compliance therewith cannot be cured as an 'irregularity' and renders the Proclamation and proceedings subsequent thereto a nullity. (See Devendra Singh Negi alias Debu Vs. State of U.P. and another : 1994 CriLJ 1783 and Pal Singh Vs. The State : 1955 CriLJ 318).*

It is thus clear that before initiating Proclamation proceedings, learned trial Magistrate has to record a specific finding that despite being aware of the pendency of the proceedings, accused has chosen not to appear. In the instant case as is apparent from the interim orders passed by the learned Magistrate, no such finding was recorded. Merely on an application moved by learned Public Prosecutor, Proclamation proceedings were initiated.

Further, while interpreting, the provision of Section 82 (1) Cr.P.C., this Court in ***Ashok Kumar vs. State of Haryana and another***



2013(4) RCR (Criminal) 550, held that a period of 30 days is required to be given to the accused and that even in case, the Court adjourns the matter subsequently, such adjournment beyond 30 days cannot be treated as compliance of requisite provisions.

Similar proposition of law was laid down in ***Prit Pal Singh vs. State of Punjab and others, CRM-M-40897-2019, decided on 03.02.2020.***

In the instant case, vide order dated 25.05.2022, no specific date for appearance of the petitioner-accused before the Court concerned was mentioned, all that was directed was to issue Proclamation for 21.07.2022. On the said day, the case was adjourned for 22.08.2022 as the period of 30 days was not over. Such an adjournment, as per settled law is not ‘*in-sync*’ with the requirements of Section 82/83 Cr.P.C.

Resultantly, the present petition stands allowed. The impugned order dated 22.08.2022 (Annexure P-3) is hereby set aside and FIR No.605 dated 26.09.2022, under Section 174-A IPC (now Section 209 BNS) along with all consequential proceedings arising therefrom against the petitioner, is hereby quashed.

(AARADHNA SAWHNEY)
JUDGE

28.11.2025
Nisha Yadav

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