



S. No.136

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

**CRM-M-66777 of 2025
Date of Decision:10.12.2025**

**Rajendra Kumar Baid
Vs.
Ind. Swift Ltd.**

.....Petitioner

.....Respondent

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

Present:- Mr. Japsehaj Singh, Advocate for the petitioner.

Mr. Hitesh Verma, Advocate for the respondent.

Yashvir Singh Rathor, J. (Oral)

CRM No.50087 of 2025

1. This is an application for placing on record copies, proclamation dated 07.03.2025, report of proclamation, statement of proclamation, warranted dated 05.02.2025 and statement of warrant as Annexures P.13 to P.17.
2. Application is allowed. Documents are taken on record as Annexures P.13 to P.17.

CRM-M-66777 of 2025

1. Present petition has been instituted under Section 482 Cr.P.C/528 of BNSS, 2023 for quashing order dated 19.04.2025 (Annexure P.1) passed by learned JMIC, Chandigarh, whereby the petitioner has been declared as a proclaimed person in case bearing No.28137 of 2013 (revived on 03.08.2023) titled “M/s Ind Swift Vs. Rajendra Kumar Baid”.



2. Upon notice, Mr. Hitesh Verma, Advocate has put in appearance on behalf of the respondent and filed his vakalatnama. The same is taken on record. I have heard learned counsel for the parties and have perused the material placed on record.

3. Learned counsel for the petitioner contended that the accused initially was declared a proclaimed person vide order dated 18.03.2024. However, thereafter, he surrendered and was released on bail vide order dated 16.07.2024 and the case was adjourned to 20.08.2024 for cross-examination of the complainant. On 28.10.2024, accused absented and his bail was cancelled and arrest warrants were ordered to be issued for 07.11.2024 which were received back unserved and fresh warrants of arrest were ordered to be issued for 11.11.2024 and, thereafter, to 22.11.2024, 07.12.2024, 16.01.2025, 01.02.2025 and 04.03.2025. On 04.03.2025, the proclamation was ordered to be issued for 19.04.2025 and executing constable was directed to publish the proclamation on or before 19.03.2025 and to appear in the Court to make his statement. The proclamation was issued for 19.04.2025 (Annexure P.13) but the executing constable appeared for making his statement on 19.04.2025 (Annexure P.15) and in his statement recorded on 19.04.2025, there is a cutting and date has been changed from 25.03.2025 to 19.03.2025 to show that proclamation was effected on 19.03.2025. Even in the report (Annexure P.13), the constable has changed the date from 25.03.2025 to 19.03.2025 and has ante-dated the same. As such, it can be presumed that the proclamation was infact effected on 25.03.2025 whereas it was required to be effected 30 days prior to 19.04.2025 and relying upon the report (Annexure P.13) and statement of constable recorded in the Court



(Annexure P.15), petitioner was declared a proclaimed person vide order dated 19.04.2025. However, the proclamation was not published 30 days prior to the date fixed for his appearance which is a material illegality and on this score only, the proceedings are liable to be quashed.

4. Learned counsel further contended that statement of serving constable was recorded in which he stated that the proclamation was affixed at the address mentioned in the proclamation and second copy was affixed at the bus stand and third copy was affixed at 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 State Counsel has argued 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 order dated 04.03.2025 is reproduced as under:-

“Non-bailable warrants issued to accused received back with the report of incorrect address. Counsel for the complainant turned up suffered a separate statement that the address mentioned in the complaint is the last known address of the accused and accused is intentionally not appearing before the court and the presence of accused may kindly be procured through coercive method.

On perusal of case file, it transpires that accused has been declared PO in the present case twice. Now again, accused has not appeared before this court. It is crystal clear that accused is intentionally not appearing before this court and trying to delay the proceedings. Therefore this court is constrained to issue proclamation under Section 82 Cr.P.C and the same is hereby ordered to be published requiring the accused to appear before this court on 19.04.2025 at sharp 10:00 A.M. The serving official is directed to publish the proclamation in all the three modes provided under Section 82(2)(i) Cr.P.C to publish it on or before 19.03.2025 so that sufficient period may be provided to accused to appear before this Court. Now the case stands to 19.03.2025 for recording the statement of Serving Official. Copy of this order be sent to Serving Official for compliance.

Date of Order: 04.03.2025

*Judicial Magistrate Ist Class,
Chandigarh.
UID NO.PB679”*



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 ofailable and/or non-ailable 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 the record shows that the proclamation was issued for 19.04.2025 (Annexure P.13) but the executing constable appeared for making his statement on 19.04.2025 (Annexure P.15) and in his statement recorded on 19.04.2025, there is a cutting and date has been changed from 25.03.2025 to 19.03.2025 to show that proclamation was effected on 19.03.2025. Even in the report (Annexure P.13), the constable has changed the date from 25.03.2025 to



19.03.2025 and has ante-dated the same. As such, it can be presumed that the proclamation was infact effected on 25.03.2025 whereas it was required to be effected 30 days prior to 19.04.2025 and relying upon the report (Annexure P.13) and statement of constable recorded in the Court (Annexure P.15), petitioner was declared a proclaimed person vide order dated 19.04.2025. However, the proclamation was not published 30 days prior to the date fixed for his appearance which is a material illegality and on this score only, the proceedings are liable to be quashed.

9. In the present case, serving constable in his statement (Annexure P.15) stated that the proclamation was affixed at the address mentioned in the proclamation and second copy was affixed at the bus stand and third copy was affixed in 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. Accordingly, the present petition is accepted and the impugned order dated 19.04.2025 (Annexure P.1) vide which, the petitioner was declared proclaimed person and all consequential proceedings are set aside.

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

(Yashvir Singh Rathor)
Judge

December 10, 2025
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Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No