



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

CRM-M-62077-2024
Date of decision: 27.01.2025

Satnam

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Raghav Puggal, Advocate for the petitioner.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 428 of BNSS seeking quashing of order dated 06.10.2018 Annexure P-10 passed by the Court of Judicial Magistrate Ist Class, Derabassi, District SAS Nagar, Mohali vide which the petitioner has been declared proclaimed person in a criminal complaint having NACT-39/2017 titled Gurmeet Singh Vs. Satnam under Section 138 NI Act.

2. The counsel for the petitioner submits that false criminal complaint has been lodged against the petitioner by respondent No.2 under Section 138 NI Act. The petitioner was not aware about the pendency of the same. It is further submitted that the impugned order was not passed in consonance with the mandate of Section 82 Cr.P.C and deserves to be set aside.

3. I have considered the submissions made by counsel for the petitioner.

4. From the perusal of zimni orders Annexure P-2 to P-6, it



appears that the learned trial Court issued notice to the petitioner to appear and face trial under Section 138 NI Act. The notice sent to the petitioner was received back unserved and then the trial Court passed order Annexure P-7 to serve the petitioner through proclamation under Section 82 Cr.P.C. It is apparent that the trial Court never issued any bailable or non bailable warrants of arrest against the petitioner before resorting to proceedings under Section 82 Cr.P.C. The trial Court also did not record its satisfaction that in view of the material available on record, there is reasonable ground to believe that the petitioner has absconded or concealing himself, before initiating proceedings under Section 82 Cr.P.C. against him. In the absence of any such satisfaction on the part of the trial Court, the issuance of proclamation against the petitioner under Section 82 Cr.P.C. amounts to non compliance with the condition essential for issuance of proclamation, as per the provision of Section 82 Cr.P.C.

5. From the perusal of the statement of serving police official Annexure P-11, it is also evident that at the time of publication of proclamation, the same was not publicly read in some conspicuous place of the town/village in which the petitioner was ordinarily residing, as is mandatory as per provision of Section 82(2)(i)(a) Cr.P.C.

6. It follows that the impugned order Annexure P-10 dated 06.10.2018 suffers from material illegalities and is liable to be set aside.

7. The impugned order Annexure P-10 is challenged by the petitioner after more than six years of its passing. It being so, certain cost is to be imposed in the present petition on account of aforesaid delay.

8. In light of the above discussion, the present petition is allowed



and impugned order dated 06.10.2018 Annexure P-10 passed by the Court of Judicial Magistrate Ist Class, Derabassi, District SAS Nagar, Mohali and all the subsequent proceedings arising therefrom are quashed qua the petitioner, subject to cost of Rs.5000/- to be deposited by the petitioner with the District Legal Services Authority, concerned within next 20 days.

9. Keeping in view the nature of order being passed, no notice is required to be issued to the respondents. However, if they feel dis-satisfied with this order, they may move an application to recall the same.

27.01.2025

Yogesh

**(KARAMJIT SINGH)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No