



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

125

CRM-M-63320-2025

Date of Decision : 03.12.2025

DALJIT SINGH CHAHAL ALIAS DALJIT CHAHAL

...Petitioner

VERSUS

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. Manjot Singh Rai, Advocate
for the petitioner.

AARADHNA SAWHNEY, J. (ORAL)

1. Petitioner has filed the present petition under Section 528 BNSS seeking quashing of order dated 24.08.2023 (Annexure P-18) passed by the learned Chief Judicial Magistrate, Kapurthala in case bearing CIS No.CRM-522-2021 titled "*State of Punjab Vs. Daljit Chahal*", arising out of GD No.31 dated 11.08.2021, registered against him u/s 182 IPC, Police Station City Kapurthala.

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

On 11.08.2021, GD No.31 dated 11.08.2021, u/s 182 IPC was registered against petitioner, who had moved a false complaint before the police authorities that three young men wearing masks broke the light of his motorcycle, snatched his mobile phone and wallet and attacked him with scissors. This dispute was later compromised.

3. Learned counsel for the petitioner submits that petitioner was falsely



implicated in the aforesaid case. He was granted the concession of bail by the learned trial Court, vide order dated 13.10.2021 and had been regularly appearing before the learned trial Court. On 09.03.2022, petitioner could not appear before the trial Court as he had gone abroad. Resultantly, his bail was cancelled, bail/surety bonds were also cancelled and forfeited to the State. His presence was sought to be procured through non-bailable warrants. Notice to the surety was also issued.

Learned counsel further submits that, though, repeated non-bailable warrants were received back unexecuted, but the learned trial Court, without there being any document on the case file, assumed that petitioner is deliberately avoiding to appear before the Court. Consequently, vide order dated 01.07.2023 initiated Proclamation Proceedings under Section 82 Cr.P.C. for 24.08.2023. However, no date for the appearance of accused-petitioner was mentioned in the said order. Subsequently on the said day i.e. on 24.08.2023, petitioner was declared '*Proclaimed Person*'. The proceedings initiated by the learned Magistrate, as per learned counsel, are not '*in sync*' with Section 82 Cr.P.C. It is with this backdrop that learned counsel prays for setting aside the impugned order dated 24.08.2023 and prays that a lenient view be taken in favour of the present petitioner, who undertakes to appear before the trial Court on each and every date of hearing.

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).*

In the case in hand a bare perusal of the interim orders (copies of which have been appended along with petition) reveal that there was no specific report with the learned Magistrate that despite service of summons, petitioner is avoiding to appear before the trial Court. In the absence of any cogent material, learned Magistrate erred in presuming that petitioner has been deliberately evading process of Court and initiated Proclamation Proceedings against him for 24.08.2023. In the order dated 01.07.2023, no date was mentioned by the learned Magistrate on which petitioner was supposed to appear before the Court. That apart, a bare perusal of statement of Executing Constable (Annexure P-19) also goes to show that even he (Executing Constable) did not mention any specific date as to when he visited the premises of petitioner-accused. On 24.08.2023, his (Executing Constable's) statement was recorded and on the same day, petitioner was declared '*Proclaimed Person*'. It is thus, clear that the impugned dated 24.08.2023 is not in consonance with the procedure so prescribed u/s 82 Cr.P.C.,

for declaring a person as ‘*Proclaimed Person/Offender*’.

6. Resultantly, the present petition stands allowed. Impugned order dated 24.08.2023 (Annexure P-18) is set aside. Petitioner is directed to appear before the Court concerned within a period of 20 days from today i.e. 24.12.2025. In case, he surrenders before the Court concerned within 20 days from today, he be released on furnishing fresh bail bonds/surety bonds to the satisfaction of the trial Court. He is also directed to furnish an undertaking by way of an affidavit that he will appear on each and every date of hearing before the trial Court, unless specifically exempted by the Court. He shall not leave the country without prior permission of the Court. The trial Court may impose any other condition that it may deem appropriate in the facts and circumstances of the present case.

Before parting with this order, it is made abundantly clear that in case the petitioner does not adhere to the aforesaid, the present petition shall be deemed to have been dismissed without any reference to this Court.

(AARADHNA SAWHNEY)
JUDGE

03.12.2025
Nisha Yadav

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