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

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CRM-M-572-2025 (O&M)
Date of decision: 07.02.2025

Mohd. Khalid @ Khalid @ Partapa**...Petitioner**

Versus

State of Punjab and another**...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Rupender Singh Rana, Advocate
for the petitioner.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioner seeking quashing of order dated 12.10.2017 (Annexure P-3, passed by the Court of learned Sub Divisional Judicial Magistrate, Sangrur in case titled as ***State vs. Mohd. Khalid***, arising out of FIR No. 82 dated 19.09.2015, registered under Section 420 of IPC at Police Station City Malerkotla, whereby the petitioner had been declared a proclaimed offender.

2. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that the petitioner has been falsely implicated in the aforementioned case. The petitioner was not aware of registration of the aforementioned FIR as he had left India for USA in June, 2015 itself, whereas the FIR in question had been got registered by respondent in the month of September, 2015. He was never served with any notice/warrants issued by the learned trial Court at his ordinary place of residence. More so, he had been declared a proclaimed offender without following the proper procedure prescribed under Section 82 of Cr.P.C. Hence, it is urged that the impugned order is liable to be set aside.

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3. I have heard learned counsel for the petitioner at considerable length and have also gone through the material placed on record.

4. In compliance with order dated 20.01.2025, a report dated 04.02.2025 has been received from the District & Sessions Judge, Sangrur along with copies of orders passed by the learned trial Court in the aforesaid case. A compliance report furnished by Sub Divisional Judicial Magistrate, Malerkotla is also attached with the report. It is submitted in the compliance report that the case was never fixed for 10.08.2017 and 25.10.2017 and these dates have wrongly been mentioned by the applicant in his application forms. The documents so supplied have been perused by this Court.

5. On giving due deliberations to the contentions as raised by learned counsel for the parties and on an overall perusal of the orders passed by the learned trial Court from the date of initiating proceedings under Section 82 Cr.P.C. as against the petitioner till the date of declaring him a proclaimed offender, I am of the considered opinion that the impugned order dated 12.10.2017 suffers from material illegalities and is liable to be quashed with all the consequential proceedings arising therefrom.

6. After going through the material placed on record as well as the copies of zimni orders passed by the learned trial Court, it is revealed that on 19.08.2017, since the non-bailable warrants issued against the petitioner were received back unserved, the learned trial Court had ordered for issuance of proclamation against him for 18.09.2017, which was executed only on 12.09.2017 requiring the petitioner to cause his appearance before the Court on 18.09.2017, which means that the petitioner was not granted mandatory period of 30 days to cause his appearance before the learned trial Court.

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Hence, the same was in clear violation of the provisions of Section 82(1) Cr.P.C., as per which, a specified time of not less than 30 days is required to be given to the accused from the date of publishing such proclamation which is mandatory in nature. Reliance in this regard can be placed upon ***Gurappa Gugal and others vs. State of Mysore : 1969 CriLJ 826*** and ***Shokat Ali Vs. State of Haryana : 2020(2) RCR (Criminal) 339***.

7. Further, when the case was taken up on 18.09.2017, the same was adjourned to 12.10.2017 awaiting awaiting the appearance of the petitioner as the mandatory period of 30 days had not elapsed. However, while adjourning the case to 12.10.2017, the learned trial Court failed to consider the fact that it could not have extended the time by simply adjourning the case as a fresh proclamation was required to be published once the period between issuance of publication of proclamation and the specified period of hearing was less than 30 days. Reference in this context can be made to ***Dilbagh Singh vs. State of Punjab (P&H) : 2015 (8) R.C.R. (criminal) 166***.

8. Accordingly, in view of the discussion as made above and also in view of the ratio of law as laid down in above cited authorities, the present petition is allowed and the impugned order dated 12.10.2017 (Annexure P-3, passed by the Court of learned Sub Divisional Judicial Magistrate, Sangrur in case titled as ***State vs. Mohd. Khalid***, arising out of FIR No. 82 dated 19.09.2015, registered under Section 420 of IPC at Police Station City Malerkotla, whereby the petitioner had been declared a proclaimed offender, is quashed with all consequential proceedings arising therefrom.

9. However, the petitioner is directed to surrender before the Court concerned within a period of four weeks, subject to order for grant of

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anticipatory bail, if any passed on his petition to be filed under Section 482 of BNSS. In the absence of any order for grant of anticipatory bail and on such surrender, the petitioner shall be liable to be remanded to judicial custody subject to any order for grant of regular bail to be passed by the concerned Court in accordance with law.

10. Needless to observe that in case any application is filed before the concerned Court for grant of regular bail, then the concerned Court shall be bound to dispose of the same expeditiously and that nothing in this order shall be treated as expression of any opinion on merits so as to bind or influence the concerned Court in disposal of the same.

11. Till the appearance of the petitioner before the learned trial Court, his arrest shall remain stayed.

12. It is made clear that in case the petitioner fails to appear before the learned trial Court within a period of four weeks from today, this petition shall be deemed to be dismissed.

07.02.2025

Waseem Ansari

**(MANISHA BATRA)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No