



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

168

CRM-M-2882-2026

Date of Decision : 11.03.2026

MOHAN SINGH

...Petitioner

VERSUS

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. J.S. Gill, Advocate
for the petitioner.

AARADHNA SAWHNEY, J. (ORAL)

1. Challenge in the present petition is to the order dated 06.02.2025 (Annexure P-2) passed by the learned Judicial Magistrate Ist Class, Ludhiana in Complaint bearing No.146 dated 18.11.2020 titled '*Manjit Singh Vs. Mohan Singh*', vide which petitioner was declared as "*Proclaimed Person*".

2. The solitary ground raised by learned counsel for the petitioner while assailing the aforesaid order is that the Serving Constable/Executing Constable, namely, HC Sukhwinder Singh did not read the proclamation at some conspicuous place of town/village/locality where petitioner-accused was residing. Thus, requirements of sub clause (i) of Sub Section 2 of Section 82 Cr.P.C (now Section 84 of BNSS) were not adhered to by the Executing Constable, which fact escaped the attention of the learned trial Court. That apart, as per the report of Executing constable, when he visited the house of the petitioner, he did not find him there and thus, affixed the publication notice on the wall of his (P) house. Attention of the Court has also been drawn to the copy of statement of the Serving Constable appended as Annexure P-2.



Learned counsel next contends that in the light of submissions advanced hereinabove, lenient view be taken in favour of petitioner, who undertakes to immediately surrender before the Court concerned and appear before the learned trial Court on each and every date of hearing, as also he is ready and willing to amicably settle the financial dispute between the parties.

3. Heard. Documents on record perused.

4. 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).



Reverting back to the facts of the case in hand, there is nothing in the report of the Executing Constable/Serving Constable from where it can be inferred that he had read the proclamation order at the site, which he was required to do. In view of the said flaw, it is evident that the requirement of sub clause (i) of Sub Section 2 of Section 82 Cr.P.C. were not complied with.

5. Resultantly, the present petition stands allowed. Impugned order dated 06.02.2025 (Annexure P-2) is set aside. Petitioner is directed to appear before the Court concerned within a period of 10 days from today. In case, he surrenders before the Court concerned within 10 days from today, he shall be released on furnishing fresh bail bonds/surety bonds to the satisfaction of the learned 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 conditions, the present petition shall be deemed to have been dismissed without any reference to this Court.

(AARADHNA SAWHNEY)
JUDGE

11.03.2026
Nisha Yadav

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>