

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

2026:PHHC:063510



CRM-M-13737-2019 (O&M)

Zulfikar Ahmed

...Petitioner

Versus

Sahibjit Bhullar and another

...Respondents

Sr. No.	Particulars	Details
1	The date when the judgment is reserved	18.04.2026
2	The date when the judgment is pronounced	27.04.2026
3	The date when the judgment is uploaded on the website	27.04.2026
4	Whether only operative part of the judgment is pronounced or full judgment is pronounced	Full
5	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Himanshu Sharma, Advocate
for the petitioner.

None for respondent No.1.

Mr. Sumit Jain, Addl. P.P., U.T., Chandigarh
For respondent No.2.

MANISHA BATRA, J.

1. The present petition has been filed under Section 482 of Cr.P.C. (which corresponds to Section 528 of BNSS, 2023) for setting aside the impugned order dated 25.09.2018 (Annexure P-5) passed by the learned trial Court in Criminal complaint No. 11061 dated 21.10.2017, titled as *Sahibjit Bhullar vs. ABC Aviation and others*, filed under Section 138 of Negotiable Instruments Act, 1881 (for short 'N. I. Act'), whereby proclamation proceedings

under Section 82 of Cr.P.C. were initiated against the petitioner.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned complaint had been filed by respondent No. 1/complainant under Section 138 of N. I. Act alleging that accused No. 1/company, of which the present petitioner was the chairman, had issued a cheque to discharge its legally enforceable liability but the said cheque had been dishonoured. Since the amount of cheque in question had not been paid despite issuance of notice, therefore, the complainant was compelled to file the aforementioned complaint.

3. Vide order dated 23.10.2017 (Annexure P-1), the learned trial Court issued process against accused No.1-ABC Aviation and accused No.2-Rajesh Ebrahim, who was signatory of the disputed cheque as well as Director of accused No.1/company. However, it was specifically ordered that no ground for summoning the present petitioner, who was impleaded as accused No. 3, was made out as the complaint and the evidence produced on record by the complainant did not disclose any role played by him for commission of subject offence nor he was found to be the signatory of the cheque in question.

4. It is further revealed from the orders subsequently passed by the learned trial Court, copies of which have been placed on record and which also form part of the trial Court's record, that after passing of order dated 23.10.2017, though summons were ordered to be issued against accused Nos. 1 and 2 only but in the subsequent orders, the learned trial Court had simply mentioned that notices were issued to the accused without clarifying that the petitioner had not been ordered to be summoned as such. It is also apparent that learned trial Court became oblivious of the fact that process had not at all been ordered to be issued against the petitioner and after issuingailable warrants,

proceeded to issue non-bailable warrants against him and then vide order dated 25.09.2018, further proceeded to initiate proceedings under Section 82 of Cr.P.C., thereby issuing proclamation against him.

5. It is also revealed that from the original trial Court's record that the present petitioner had even caused appearance before the learned trial Court and had been extended benefit of bail. However, thereafter, he filed this petition and the proceedings before the learned trial Court qua him had been stayed by this Court.

6. It is argued by learned counsel for the petitioner that the impugned order is not at all sustainable in the eyes of law as while passing the same, the learned trial Court ignored the fact that the petitioner had not been summoned as an accused by it and, therefore, no question of issuing bailable/non-bailable warrants and then initiating proclamation proceedings had arisen against him. It is, therefore, urged that the impugned order is liable to be set aside and the petition deserves to be allowed.

7. Respondent No.1/complainant had initially been appearing through counsel after issuance of notice of the petition. However, at the time addressing arguments, none had appeared on his behalf.

8. Learned Additional Public Prosecutor, Chandigarh has chosen not to raise any argument since the matter relates to a private complaint.

9. This Court has heard the submissions made by learned counsel for the petitioner, besides perusing the material placed on record as well as the trial Court's record.

10. As already discussed, the petitioner had never been summoned as an accused in the aforementioned complaint. It is apparent from the orders passed by the learned trial Court that the impugned order was a result of

lackadaisical approach adopted by the learned trial Court as while ignoring the fact that no process had been issued against the petitioner, bailable/non-bailable warrants had been issued against him and even proclamation proceedings had been initiated against the petitioner. As such, apparently and evidently, the impugned order is not sustainable. Accordingly, the present petition is allowed. The impugned order dated 25.09.2018 (Annexure P-5) along with all the subsequent proceedings having emanated therefrom is quashed qua the petitioner herein.

11. The registry is directed to send back the trial Court's record.
12. A copy of this order be also sent to the learned trial Court.

27.04.2026

Waseem R. Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No