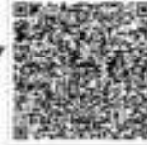


2026:PHHC:047557



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

SR. NO.223

**CRR-1722-2012 (O&M)
DATE OF DECISION:23.03.2026**

BILLU

...PETITIONER(S)

VERSUS

STATE OF PUNJAB

...RESPONDENT(S)

CORAM: HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present: Mr. Veneet Sharma, Advocate
for the petitioner.

Mr. Bhanu Pratap Singh, Addl. A.G., Punjab.

N.S. SHEKHAWAT, J.

1. The petitioner has filed the present revision petition against the impugned judgment of conviction and order of sentence dated 10.5.2012 passed by the Court of Additional Sessions Judge, Amritsar, whereby he has been convicted for the offence punishable under Section 174-A IPC and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/-. In default of payment of fine, the petitioner was directed to undergo further rigorous imprisonment for a period of 7 days.

2. The facts of the case, as recorded by the trial Court in para 2 of its judgment, read as under:-

“Briefly, the case of the prosecution is that the instant case was registered on the written complaint of the Satpal, Ahlmad attached to the court of Chief Judicial Magistrate, wherein he stated that accused Billu son of Manohar Lal, Caste Balmiki, resident of H.No. 3541/1, Chitta Ghumat, P.S. ‘A’ Division, Amritsar, i.e. the petitioner, was an accused in case FIR No. 72 dated 10.4.2004, under Sections 452/506/342/148/149/447/448/511 of IPC and under Sections 25/27/54/59 of the Arms Act titled as "State Vs. Sunir Kumar and others" of P.S. Civil Lines, Amritsar and had been facing the trial and absented himself from the proceedings and proclamation under Section 82 of Cr.P.C. was issued against the petitioner/accused on 14.8.2006, requiring him to appear in the court within a period of 30 days from the date of effecting proclamation. Proclamation under Section 82 of Cr.P.C. was effected on 4.10.2006, but he failed to appear in the court within specified period of 30 days as required under sub Section 1 of 82 Cr.P.C. So, the petitioner had committed an offence under section 174(A) of Indian Penal Code and requested to register a case. Upon this complaint, a case was registered against the petitioner. Further investigation was conducted and petitioner was arrested in this case on 12.10.2007. Rough site plan of arrest place was separately prepared. Statements of witnesses under Section 161 Cr.P.C. were recorded. After formal investigation, a report under Section 173 Cr.P.C. was filed by SHO in the court of Illaqa Magistrate.”

3. After the presentation of the challan, the trial court found that a *prima facie* case under Section 174-A IPC was made out against the petitioner and he was ordered to be charge-sheeted. However, he pleaded not guilty and claimed trial.

4. The prosecution examined SI Tarsem Lal as PW-1, who deposed that on receipt of a complaint from Satpal, Ahlmad to the Court of CJM Amritsar, he made his endorsement (Exhibit P-1) and on the basis of the complaint, a formal FIR (Exhibit P-2) was lodged by SI Dilbag Singh. He prepared the site plan (Exhibit P-3) and further investigation was handed over to some another police official. The prosecution further examined PW-2 HC Satpal Singh, who stated that in the month of January 2007, the petitioner/accused, who was wanted in the present case, was arrested by him and was produced in the court. Further, Satpal, Reader (complainant) was examined as PW-3, who stated that in the year 2006, he was posted as Ahlmad to the Court of CJM Amritsar, where the petitioner was facing a trial in FIR No. 72/2004 and proclamation under Section 82 Cr.P.C. was issued by the court. Since the petitioner did not appear within the stipulated period of 30 days, he was declared a proclaimed offender by the court. He had sent a complaint (Exhibit PA) for registration of the case against the petitioner.

5. After the completion of prosecution evidence, the statement of the petitioner was recorded under Section 313 Cr.P.C., wherein he denied all the incriminating evidence against him and submitted that he was innocent and was falsely involved in the present case. In his defence, he opted not to lead any evidence in the present case.

6. After holding the trial, vide judgment dated 16.2.2010, the Court of Chief Judicial Magistrate, Amritsar, acquitted the present petitioner of the charge framed against him. However, the State of Punjab had filed an appeal before the Sessions Court and vide the impugned judgment, the

Appellate Court convicted the petitioner for the commission of the offence under Section 174-A IPC and sentenced him to undergo RI as noted above.

7. Learned counsel for the petitioner has vehemently argued that in the present case, the petitioner was convicted as he was declared a proclaimed offender vide order dated 4.10.2006. However, the copy of the basic order itself was not exhibited by the prosecution and in absence of the same, the petitioner could not have been convicted by the Appellate Court. Apart from that, it was not proved during trial that the petitioner was declared as a proclaimed offender by following the procedure prescribed under Section 82 Cr.P.C. Further, after the proclamation was ordered to be published, it was the executing official, who had declared the publication of the proclamation as per law. However, the said witness was not examined by the trial court and due to this fact alone, the petitioner is liable to be acquitted by this court.

8. On the other hand, the learned State counsel has vehemently opposed the submissions made by the petitioner on the ground that the order (Exhibit PB) dated 4.10.2006 was duly exhibited on the file of the trial court. Even the said photocopy was placed on record from the original source by PW-3, Satpal, Ahlmad (complainant). Still further, the Chief Judicial Magistrate had recorded his satisfaction before declaring the petitioner as proclaimed offender and the order dated 4.10.2006 conclusively proved that he was declared as a proclaimed offender after following the due process of law.

9. I have heard the learned counsel for the parties and perused the case file carefully.

10. In fact, after examining the record in the present case, I find substance in the arguments raised by the learned counsel for the petitioner that the order dated 4.10.2006 was the foundational order, on which the entire prosecution case rests. However, only a photocopy of the order dated 4.10.2006 was placed on record. Even though the said order has been exhibited, but admittedly the said order has not been exhibited as per law and thus, in absence of the said order, the judgment of conviction is unsustainable.

11. Still further, the Appellate Court, while reversing the judgment of acquittal, had wrongly held that once the statement in writing in court issuing the proclamation is placed on record, it would be the conclusive evidence that the requirements of Section 82 Cr.P.C. had been complied with and the proclamation was published. In fact, the said finding is apparently wrong and is liable to be set aside. Once a proclamation is issued as per the mandate of Section 82 Cr.P.C., there is a set procedure, which is to be followed by the official who is under a legal duty to execute/publish the proclamation, in accordance with law. In the present case, the serving/executing official, who had published/executed the proclamation after following the due procedure, was not examined. Consequently, the most essential witness in the present case was not examined by the prosecution to substantiate the charge against the petitioner. Thus, the findings recorded by the first Appellate Court are apparently wrong and illegal.

12. In view of the above discussion, the present petition is allowed.

Consequently, the impugned judgment of conviction and order of sentence

dated 10.5.2012 passed by the Court of Additional Sessions Judge, Fast Track Court, Amritsar are ordered to be set aside and the petitioner is ordered to be acquitted of the charge. Pending application(s), if any, shall stand disposed of.

23.03.2026**mks****(N.S.SHEKHAWAT)****JUDGE**

Whether Speaking/Reasoned: YES / NO

Whether Reportable: YES / NO