



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

101

CRM-M-41172-2025
Date of decision: 05.03.2026

PUSHPINDER SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: - Mr. Sarabjit Singh Cheema, Advocate
for the petitioner.

Mr. Mohit Kapoor, Senior DAG, Punjab.

VINOD S. BHARDWAJ, J. (Oral)

The instant second petition has been filed under Section 528, BNSS for seeking quashing of order dated 07.06.2022 passed by Judicial Magistrate 1st Class, Ludhiana in case bearing FIR No. 18, dated 22.01.2020 registered under Sections 420 and 120-B of the Indian Penal Code, 1860 at Police Station Koom Kalan, District Ludhiana whereby the petitioner was declared as proclaimed person.

2. Learned Counsel appearing on behalf of the petitioner contends that the petitioner had been falsely implicated in the aforesaid case. He contends that the petitioner was never aware of the registration of the aforesaid FIR against him and that at no point in time, he was ever served. The Police also did not make any sincere efforts to execute the warrants against the petitioner or to secure his presence. He further contends that the address mentioned was the petitioner's earlier residence. However, the said

house had already been taken possession of by the finance company, which fact was within the knowledge of the law enforcement agencies, therefore, the petitioner was not residing at the said address. It is submitted that the trial Court initially issued proclamation against the petitioner on 15.11.2021, requiring his appearance on 17.01.2022. Thereafter, the proclamation was issued again on 10.03.2022 for his appearance on 06.05.2022. He submits that undisputedly, as is evident from the report that the publication of the proclamation was done on 03.05.2022 i.e. three days prior to the date fixed before the Court. It is contended that as per Section 82(1) Cr. P.C., a minimum period of 30 days is required to exist between the date of publication as well as the date fixed for appearance. He submits that any subsequent adjournment of the case to a later date or issuance of the proclamation at later point in time would be non-compliance of the procedure as prescribed under Section 82 Cr. P.C. He submits that in view of the judgment of Hon'ble the Supreme Court in the matter of ***“Muskan Enterprises and another versus The State of Punjab and another”*** in ***Criminal Appeal No.5491 of 2024 arising out of SLP (Crl.) No. 8072 of 2024***, there would be no bar in entertaining the present petition. He further contends that the earlier criminal miscellaneous petition was withdrawn by the petitioner herein by moving a specific application. Thus, there was no adjudication on the merits of the case at any point in time and the petition was not withdrawn after arguments had been addressed at length or upon being confronted with the likelihood of dismissal.

3. Learned State Counsel contends that although the date fixed for appearance was 06.05.2022, however, as the mandatory period of 30 days

had not elapsed, therefore the petitioner was formally declared as a proclaimed person only on 07.06.2022, hence, a 30 days period had elapsed.

4. I have heard learned Counsel appearing on behalf of the respective parties and after taking into consideration the arguments as well as the substantive provision as contained in Section 82(1) Cr. P.C., the position in law has been reiterated to the effect that a clear 30 days period must exist between the date of publication and the first date for proclamation. The mandate of Section 82 would not be deemed to have been prescribed merely by adjourning the date for a date beyond 30 days. Reliance is placed on the case of 'Ashok Kumar v State of Haryana, 2013 (4) R.C.R. (Criminal) 550' wherein it was observed that subsequent adjournments by the Court so as to complete the period of 30 days would not cure the defect of not having provided a clear period of 30 days upto the date nominated for causing appearance in the court as per proclamation notice.

5. In view of the above, the present petition is allowed and the order dated 07.06.2022 passed by Judicial Magistrate, 1st Class, Ludhiana in case bearing FIR No. 18, dated 22.01.2020 registered under Sections 420 and 120-B of the Indian Penal Code, 1860 at Police Station Koom Kalan, District Ludhiana, declaring the petitioner as proclaimed person is set aside, subject to payment of costs of Rs. 10,000/- to be deposited with the "High Court Legal Services Committee", Chandigarh within a period of 10 days from the receipt of certified copy of this order.

(VINOD S. BHARDWAJ)
JUDGE

MARCH 05, 2026
Vishal Sharma

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No