

CRM-M-55519-2025 (O&M)

2026:PHHC:058067



116 (2nd case)

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

CRM-M-55519-2025

Mona Bharti

....Petitioner

versus

State of Punjab

....Respondent

Date of Decision: April 17, 2026

Date of Uploading: April 18, 2026

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Bipan Ghai, Senior Advocate with
Mr. Nikhil Ghai, Advocate and
Mr. Munish Bansal, Advocate for the petitioner.

Mr. Adhiraj Singh Thind, AAG Punjab.

Mr. Suneet Pal Singh Aulakh, Advocate for the complainant.

SUMEET GOEL, J. (ORAL)

Present petition has been filed under Section 528 of the BNSS, 2023, seeking quashing of the impugned order dated 25.10.2021 (Annexure P-21) passed by the learned Chief Judicial Magistrate, Hoshiarpur, whereby, the petitioner has been declared as proclaimed offender, in case FIR No.265 dated 22.11.2020, registered for commission of offences punishable under Sections 302, 201, 120-B of IPC (Section 404 of IPC added lateron), at Police Station Model Town, District Hoshiarpur, and all subsequent proceedings arising therefrom, including FIR No.316 dated 05.12.2022, under Section 174-A of IPC, registered at Police Station Model Town, Hoshiapur *qua* the petitioner.

2. Learned senior counsel for the petitioner has contended that the impugned order, whereby the petitioner has been declared a proclaimed offender, is wholly illegal, arbitrary, and unsustainable in the eyes of law. It has been submitted that the FIR in question was got registered at the instance of the complainant against Ashish Khushwana, Sunil Kumar and Rahul Kumar, alleging that on 14.11.2020, his father, namely, Bhagwant Kishore and his associate lawyer, namely, Sia alias Geetu wife of Ashish Khushwaha were set on fire in a Maruti Celerio car and the said incident was shown as an accident. Learned senior counsel has submitted that the FIR was got registered against aforesaid three accused and even in the statement of the complainant basis whereof, FIR in question was registered, neither was the petitioner named in the said FIR nor were any specific allegations raised against her. Learned senior counsel has submitted that vide Rapat No.28 dated 28.12.2020, the petitioner was nominated as an accused, in this case.

2.1. Learned counsel has further submitted that non-bailable warrants were issued against the petitioner, but the same remained unexecuted. Learned senior counsel has submitted that, vide order dated 02.09.2021 passed by the Court below, proclamation was issued under Section 82 of the Cr. P.C. for 14.10.2021.

2.2. Learned senior counsel has further submitted that the petitioner had filed an application seeking cancellation of non-bailable warrants against her, but the same came to be dismissed, vide order dated 16.09.2021.

2.3. Learned senior counsel has submitted that, vide order dated 14.10.2021, it was noted by the Court below that statement of serving official, regarding proclamation, was recorded, but since 30 days time had not elapsed,

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therefore, the matter was adjourned to 25.10.2021. Learned senior counsel has submitted that on the said date, i.e., 14.10.2021 itself, an application filed by the petitioner seeking conducting enquiry under Section 82(4) of Cr. P.C. before declaring petitioner as proclaimed offender, was also dismissed.

2.4. Learned senior counsel has submitted that, vide order dated 25.10.2021, the Court below without ensuring due compliance with the provisions of Section 82 Cr. P.C. regarding proclamation, declared the petitioner along with other co-accused, as a proclaimed offender. Learned senior counsel has also argued that, even an FIR No.316 dated 05.12.2022 has been registered under Section 174-A of IPC against the petitioner and other co-accused. Learned senior counsel has submitted that, the impugned order dated 25.10.2021 is non-speaking and mechanical order *sans* reasons or demonstrating application of judicial mind and the same is not based on facts and circumstances to show that the case was fit to invoke criminal liability of the petitioner for offence under Section 174A of IPC.

2.5. Learned senior counsel has submitted that vide judgment dated 26.03.2025 passed by the learned Judicial Magistrate Ist Class, Hoshiarpur, co-accused, namely, Ashish Kumar and Sunil Kumar have been acquitted of the charge framed against them, in respect of FIR No.316 dated 05.12.2022, under Section 174-A of IPC while observing that no compliant has been moved by the Court concerned, which is a clear violation of Section 195 of Cr. P.C.

2.6. Learned senior counsel has submitted that in the meantime, the petitioner preferred a revision petition before learned Additional Sessions Judge, Hoshiarpur, and the same ultimately, came to be dismissed as withdrawn, vide order dated 29.07.2024 (Annexure P-30).

2.7. Learned senior counsel has submitted that after completion of investigation, supplementary report under Section 173(8) of Cr. P.C. was prepared on 06.10.2023 and the petitioner was kept in column No.2 and was declared innocent by the police as the petitioner was not found involved in commission of crime. Learned senior counsel has submitted that supplementary report was accepted by learned Additional District and Sessions Judge, Hohiarpur, vide order dated 02.01.2024, and had taken cognizance only against co-accused and not against the petitioner.

2.8. Learned senior counsel has submitted that the petitioner was advised by her counsel before Court below that as per status report filed in the revision petition filed by the petitioner before Sessions Court, which was dismissed as withdrawn, vide order dated 29.07.2024, and upon filing of supplementary challan declaring petitioner innocent, she was not required by the police and, thus, the petitioner remained busy in her day to day life and could not pursue proceedings before the Court below. It has been submitted that, later on, the petitioner came to know that, vide judgment dated 21.03.2025 (Annexure P-32), co-accused (Rahul Kumar @ Kapil Kumar, Ashish Khushwaha @ Ahish Kumar and Sunil Kumar) of the petitioner were convicted and sentenced accordingly.

2.9. Learned senior counsel has asserted that proclamation against the petitioner was issued on 02.09.2021 for 14.10.2021, and vide order dated 14.10.2021, it was stated therein that statement of serving official was recorded and the matter was adjourned to 25.10.2021 while stating therein that statutory period of 30 days had not elapsed. Learned senior counsel has, thus, argued that period of 30 days as mentioned in the provisions of Section 82 of the Cr. P.C.

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had not elapsed from the date of publishing of such proclamation, and the matter was further adjourned to 25.10.2021 without issuing fresh proclamation requiring the petitioner to cause appearance before the Court below within a period of 30 days, which is in contravention with the settled legal position that a fresh proclamation is mandatory upon adjournment. Thus, the order declaring the petitioner a proclaimed offender is in gross violation of law and principles of natural justice as there was no deliberate evasion or non-appearance on the part of the petitioner. On the basis of these submissions, learned counsel has prayed that the impugned order is liable to be set-aside being illegal and unjustified and hence liable to be set-aside.

3. On the other hand, learned State counsel, while referring to short reply by way of an affidavit dated 26.10.2025, has opposed the present petition. While refuting the case set up by the petitioner, detailed arguments were advanced on merits, contending that the offence alleged against the petitioner is serious in nature. Furthermore, it has been submitted by the learned State counsel that raids were conducted at the residences of the petitioner and her co-accused, but despite sincere efforts, they could not be apprehended/ arrested. Learned State counsel has submitted that the petitioner evaded her arrest, which compelled the Court below to declare her proclaimed offender and ordering initiation of proceedings under Section 174A of IPC, vide impugned order. Moreover, it has been stated that the learned Court below followed the procedure as laid-down under Section 82 of the Cr. P.C., 1973 in letter and spirit and no discrepancy whatsoever is forthcoming from the records of the case. Accordingly, dismissal of the instant petition has been prayed for.

3.1. Learned counsel for the complainant has vehemently opposed the grant of petition in hand by arguing that allegations against the petitioner are serious in nature. Learned counsel has argued that the petitioner, intentionally, did not cause appearance before the Court below. Learned counsel has further argued that the proclamation was issued and duly effected upon the petitioner clearly in terms of provisions of Section 82 of the Cr. P.C. and, thus, the impugned order cannot be said to be illegal, arbitrary, and unsustainable in the eyes of law.

3.2. Learned counsel has submitted that even after declaring the petitioner Proclaimed offender, vide impugned order, neither was any action taken by the police to arrest the petitioner nor the petitioner had herself caused appearance before the Court below, which shows deliberate attempt on the part of the petitioner to evade the process of law. Learned counsel has also submitted that consequential proceeding under Section 174-A of IPC is an independent substantive offence and can continue even if the proclamation is no longer in effect. On the strength of these submissions, dismissal of the petition in hand is prayed for.

4. I have heard the learned counsel for the rival parties and carefully perused the record of the case.

5. The law is well settled that no person can be declared a proclaimed offender/person unless the procedure prescribed under Section 82 of the Code of Criminal Procedure, 1973 is strictly and meticulously adhered to. It is trite that the provisions of Section 82 Cr.P.C. are mandatory in nature, and any non-compliance thereof vitiates the entire proceedings. Furthermore, Section 82(1) of the Cr. P.C. clearly provides that before issuing a proclamation

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requiring a person to appear, the Court must have reason to believe that such person has absconded or is concealing himself so that the warrant cannot be executed. Further, the proclamation must specify a date not less than 30 days from the date of publication for the accused to appear before the Court. In the present case, perusal of the order dated 02.09.2021 shows that proclamation was issued against the petitioner for 14.10.2021, and thereafter, vide order dated 14.10.2021, the matter was adjourned to 25.10.2021 while stating therein that statutory period of 30 days had not elapsed. The law is well settled that when a matter is adjourned after issuance of proclamation, the Court is required to issue a fresh proclamation intimating the adjourned date. Failure to do so vitiates the subsequent order declaring the accused as a proclaimed person. The impugned order dated 25.10.2021 also reflects non-compliance with the statutory requirement of waiting for a minimum of 30 days after publication of proclamation before declaring an accused a proclaimed offender. In the considered opinion of this Court, clear notice period of not less than 30 days from the date of its publication must be provided in the proclamation itself. The same legal principle squarely applies in the present case.

5.1. Perusal of the case shows that supplementary report under Section 173(8) of Cr. P.C. was prepared on 06.10.2023, wherein, the petitioner was kept in column No.2 and was declared innocent by the police as the petitioner was not found involved in commission of crime. Though the stand of the police that the petitioner has been found innocent *qua* FIR in question is not linchpin of the issue as to whether the petitioner was rightly declared proclaimed offender, howbeit, this aspect cannot be lost sight of, at this stage.

5.2. It has been submitted by learned senior counsel for the petitioner that, vide judgment dated 26.03.2025, the co-accused, namely Ashish Kumar and Sunil Kumar, have been acquitted of the charges framed against them in FIR No. 316 dated 05.12.2022 under Section 174-A of the IPC. It has been further submitted that the acquittal was recorded, *inter alia*, on the ground that no complaint had been filed by the concerned Court, which constitutes a clear violation of Section 195 of the Cr.P.C.

5.3. Keeping in view the entirety of factual *milieu* of the case in hand, this Court is of the opinion that the impugned proclamation order and consequential proceedings under Section 174-A IPC are liable to be quashed as the same suffer from patent illegality and non-compliance with mandatory statutory provisions. A perusal of the record shows that although proclamation was issued on 02.09.2021 fixing the date of appearance as 14.10.2021, the Court itself observed on the said date that the statutory period of 30 days had not elapsed and adjourned the matter to 25.10.2021; however, no fresh proclamation was issued for the adjourned date, which is a settled requirement of law. Moreover, even on 25.10.2021, the mandatory requirement of granting a clear notice period of not less than 30 days from the date of publication of proclamation was not fulfilled, thereby vitiating the declaration of the petitioner as a proclaimed offender. Since proceedings under Section 174-A IPC are consequential in nature, the same cannot survive once the foundational proclamation is invalid. Additionally, in view of the judgment dated 26.03.2025 acquitting the co-accused on the ground of non-compliance with Section 195 Cr.P.C., the present proceedings are also barred by law for want of a valid complaint by the concerned Court. Furthermore, the petitioner has been found

innocent during investigation and placed in Column No.2 in the supplementary report under Section 173(8) Cr.P.C., and, thus, continuation of proceedings would amount to abuse of the process of law.

6. This Court finds that the course adopted by the Court below is in clear contravention of, and antithetical to, the provisions of Section 82 of the Code of Criminal Procedure, 1973. The Court below has committed a manifest illegality by issuing and acting upon the proclamation without ensuring compliance with the mandatory statutory requirements. The learned Court below, while declaring the petitioner as a proclaimed offender, failed to record the requisite judicial satisfaction regarding due execution of the proclamation and proceeded in a mechanical and perfunctory manner, rendering the impugned order legally unsustainable. Such an order being violative of mandatory provisions of law, cannot be sustained. Section 82 of the Criminal Procedure Code, 1973 reads as under:

“82. Proclamation for person absconding. - (1) *If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.*

(2) The proclamation shall be published as follows: -

(i)(a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;

(b) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village;

(c) a copy thereof shall be affixed to some conspicuous part of the court-house;

(ii) the Court may also, if it thinks fit, direct a copy of the proclamation to be published in a daily newspaper circulating in the place in which such person ordinarily resides.

(3) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day, in the manner specified in clause (i) of sub-section (2), shall be conclusive evidence that the requirements of this Section have been complied with, and that the proclamation was published on such day.

[(4) Where a proclamation published under sub-section (1) is in respect of a person accused of an offence punishable under Sections 302, 304, 364,

367, 382, 392, 393, 394, 395, 396, 397, 398, 399, 400, 402, 436, 449, 459, or 460 of the Indian Penal Code (45 of 1860), and such person fails to appear at the specified place and time required by the proclamation, the Court may, after making such inquiry as it thinks fit, pronounce him a proclaimed offender and make a declaration to that effect.

(5) The provisions of sub-sections (2) and (3) shall apply to a declaration made by the Court under sub-section (4) as they apply to the proclamation published under sub-section (1).j”

7. A Coordinate Bench of this Court while dealing with invocation of the provision of Section 82 of the Code of Criminal Procedure, against an accused in the case of **‘Sonu v. State of Haryana, 2021(1) RCR (Criminal) 319’**, held as under:

“9. The essential requirements of section 82 of the Cr.P.C., 1973 for issuance and publication of proclamation against an absconder and declaring him as proclaimed person/offender may be summarized 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 v. 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., 1973. (See Rohit Kumar v. 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 v. Emperor : AIR 1943 Patna 366 and Devender Singh Negi v. 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 v. State of Mysore : 1969 CriLJ 826 and Shokat Ali v. 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 v. State of Punjab (P&H) : 2015 (8) RCR (CRIMINAL) 166 and Ashok Kumar v. 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., 1973. 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., 1973 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 v. 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 Courthouse 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 v. 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., 1973. 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 v. State: 1958 CriLJ 965).

(xi) The conditions specified in section 82(2) of the Cr.P.C., 1973 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 v. State of U.P. and another: 1994 CriLJ 1783 and Pal Singh v. The State: 1955 CriLJ 318)."

8. It is by now a settled principle of law that prior to issuing a proclamation under Section 82 Cr. P.C., the Court is required to record its satisfaction that the accused, against whom such proclamation is sought, is absconding or is concealing himself with the intention to evade arrest. This foundational and jurisdictional requirement is conspicuously absent in the present case. A perusal of the impugned order dated 25.10.2021 reveals that no such satisfaction has been recorded by the Court below, nor does the record disclose any material which could justify an inference that the petitioner had absconded or was deliberately avoiding his appearance before the Court.

9. The provisions of Section 82 of the Code of Criminal Procedure, having serious civil and criminal ramifications *qua* the rights of an accused,

particularly affecting his liberty and participation in trial proceedings, cannot be invoked in a casual or cavalier manner. The mandatory requirement of recording satisfaction that the accused has absconded or is concealing himself so that the warrant of arrest cannot be executed, as embodied under Section 82 Cr.P.C., must be scrupulously complied with on the basis of cogent and relevant material available on record. Any non-adherence to this statutory mandate while declaring an accused as a proclaimed offender/person vitiates the proclamation proceedings in their entirety.

10. In the aforesaid backdrop, this Court is of the considered opinion that no useful purpose would be served by permitting the proclamation proceedings to continue against the petitioner, which are founded upon an illegal and procedurally flawed proclamation. It is, therefore, a fit and appropriate case for the exercise of inherent powers under Section 528 of the BNSS / Section 482 of the Cr.P.C., so as to prevent abuse of the process of law and to secure the ends of justice.

11. In view of the above findings, and considering the entirety of the facts and circumstances of the present case, the present petition is **allowed**. Consequently, the impugned order dated 25.10.2021 (Annexure P-21) passed by the learned Chief Judicial Magistrate, Hoshiarpur, whereby, the petitioner has been declared as proclaimed offender, in case FIR No.265 dated 22.11.2020, registered for commission of offences punishable under Sections 302, 201, 120-B of IPC (Section 404 of IPC added lateron), at Police Station Model Town, District Hoshiarpur, and all subsequent proceedings arising therefrom, including FIR No.316 dated 05.12.2022, under Section 174-A of

IPC, registered at Police Station Model Town, Hoshiapur, are hereby **quashed** *qua* the petitioner.

12. Pending application(s), if any, shall also stand disposed of accordingly.

(SUMEET GOEL)
JUDGE

April 17, 2026
Mahavir/Ajay

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No