

2026:PHHC:062663



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

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CRM-M-70764-2025
Date of Decision: 21.04.2026

**RANDIP SHARMA @ RANVIR KUMAR @
RANDEEP SINGH @ MONU PANDIT & ANR.**

... Petitioners

VERSUS

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY.

Present: Mr. Bhupinder Ghai, Advocate
for the petitioners.

Mr. M.S. Atwal, DAG, Punjab.

AMAN CHAUDHARY, J. (ORAL)

Prayer made in the present petition is for quashing the impugned order dated 19.03.2021 (Annexure P-2) passed by the learned JMIC, Phagwara in a case bearing FIR No.79 dated 30.09.2019 under Sections 307, 341, 323, 506, 427, 120-B, 148 and 149 of IPC registered at Police Station Rawalpindi, District Kapurthala, Punjab, whereby the petitioners have been declared as proclaimed offenders.

2. Learned counsel submits that the petitioners were not named in the FIR and the came to be nominated on the basis of a supplementary statement made by the complainant after 15 months vide DDR No.28 dated 24.12.2020. The petitioners were declared as proclaimed offenders on

09.03.2021 without serving proper notice and adopting proper procedure as per law. At that point of time, the petitioners were residing in House No.1796, Nirvana Cooperative Society, Sector 49, Chandigarh, for which reference is made to Annexures P-3 and P-4 and thereafter, nearby 20.12.2021, they shifted to village Dhinpur, Tehsil Phillaur, District Jalandhar, for which reference is made to Annexures P-5 and P-6. It was only in April 2023, when the petitioners came to know about the present FIR, whereupon they immediately approached the complainant and amicably settled the matter vide compromise deed dated 31.05.2023, for which reference is made to Annexure P-7. Thereafter the petitioners alongwith other co-accused approached this Court by filing a petition bearing No.30603 of 2023 seeking quashing of the FIR on the basis of compromise as also the order dated 09.03.2021 vide which the petitioners were declared proclaimed offenders; but unfortunately, during the pendency of the said petition, the complainant backed out from the said compromise and resultantly the petitioners had to withdraw the abovementioned petition vide order dated 18.02.2025. Counsel for the petitioners further submits that the provisions of Section 82 of Cr.P.C. were not complied with inasmuch as the mandatory period of 30 days from the date of effecting of proclamation till hearing was not granted. Even otherwise, the service of proclamation was not properly effected due to change of address. Learned counsel for the petitioners further submits that the petitioners be permitted to join the proceedings in the present matter, for which one opportunity is prayed for that may be subject to the costs. To buttress the submissions, reliance is placed upon judgments in the cases of CRM-M-29878-2022, **Sardar Singh and another vs. State of Punjab and another**,

decided on 30.08.2022, **Uttam Sharma vs. State of Punjab and another**, CRM-M-31481-2021, dated 29.09.2021 and **Ashok Kumar vs. State of Haryana and another**, CRM-M-13638-2013, decided on 05.08.2013.

3. Notice of motion.

4. At asking of the Court, Mr. M.S. Atwal, DAG, Punjab accepts notice and submits that the order passed against the petitioners is legal and valid on account of the fact that they had absented from the proceedings before the trial Court without any just cause.

5. Heard.

6. It would be apposite to refer to the provisions of Section 82 (1) Cr.P.C. which reads thus:-

“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) xx xx xx xx

(3) xx xx xx xx. ”

6. Perusal of impugned order shows that the proclamation issued against the petitioners was received back on 27.01.2021 but it is nowhere mentioned in the said order that as to for which date the said proclamation was issued and as whether the date of appearance was mentioned therein or not. In these circumstances, it cannot be said that as whether the petitioners were given the 30 days' time to appear before the Court or not and as to on

which date the said period of 30 days elapsed. Even the trial Court did not bother to record the statement of the executing police official. A gainful reference can be made to the judgment in **Ashok Kumar** (supra), relevant para of which reads thus:

“A copy of the proclamation was also affixed at conspicuous part of the Court house, which means that the publication was effected on 9.2.2013 for 6.3.2013, which shows that after the publication of the notice, the accused was not given the mandatory period of 30 days to appear before the Court. The mere fact that the Court adjourned it after the period of 30 days will not be treated as compliance of the provisions of Section 82 (1) Cr.P.C.”

7. The aforesaid judgment was relied upon in **Uttam Sharma** (supra), wherein the order of proclamation was set aside, as a clear 30 days' time from the date of publication was not afforded before issuing absconding warrant against the accused as per the statutory provisions of Section 82 Cr.P.C.

8. In view of the above discussion, this Court finds that the requisite procedure as mandated by Section 82 Cr.P.C. was not completely followed in letter and spirit, thus, the continuation of proceedings would be an abuse of the process and deserves to be quashed, as held in **Ramesh Chandra vs. State of U.P., 2022 SCC OnLine SC 1634**.

9. Considering the fact that the absence of the petitioner was not willful or deliberate and his readiness and willingness to surrender and join the proceedings, in case one opportunity is granted to the petitioner, no prejudice shall be caused to any of the parties, rather his joining the proceedings would help in expediting the trial. This Court in light of the

judgments referred to above being applicable to the instant case, finds that the ends of justice would be adequately met if the present petition is allowed.

10. In view of the afore-mentioned judgments and the facts and circumstances of the case, the impugned order dated 05.12.2023, is set aside.

11. He is directed to surrender before the trial Court on or before 10.04.2026 and on so doing, shall release him on bail subject to its satisfaction and deposit costs of Rs.10,000/- each with Shree Mata Mansa Devi Bhandar Committee Charitable Trust (Regd.) having its Account No.50100238189041, IFSC Code-HDFC0000108, HDFC Bank, Sector-8, Panchkula. On furnishing bail/surety bonds, he is also directed to furnish 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.

12. The petition is disposed of.

13. Before parting with this order, it is made abundantly clear that in case the petitioner does not adhere to the aforesaid, the present petition shall be deemed to have been dismissed without any reference to this Court.

APRIL 21, 2026.

Rajender

**(AMAN CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No