



CRM-M-71687-2025

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139-II

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

CRM-M-71687-2025

Date of Decision: 12.01.2026

BHUPINDER KAUR

..... Petitioner

*Versus***STATE OF PUNJAB**

..... Respondent

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Hitesh Verma, Advocate
for the petitioner.

Mr. Gorav Kathuria, DAG Punjab.

YASHVIR SINGH RATHOR, J. (Oral)

1. Present petition has been instituted under Section 528 of BNNS, 2023 for quashing order dated 12.09.2022 (Annexure P-7) passed by learned Judicial Magistrate 1st Class, District Barnala whereby the petitioner has been declared as a proclaimed person in case bearing FIR No.25 (Annexure P-1) dated 17.04.2021, under Section 406 and 34 of IPC, 1860 registered at Police Station Bhahadur, District Barnala along with other consequential proceedings arising from the same.

2. I have heard the learned counsel for the petitioner as well as the learned State counsel and have gone through the material collected by the police during investigation.

3. Learned counsel for the petitioner argued that petitioner has been wrongly declared as a proclaimed person. She never received any summons/warrants from the Trial Court and serious efforts were not made by the Trial Court to secure her presence. Learned counsel



contended that non-bailable warrants against the petitioner-accused issued for 06.07.2022 were received back unserved with the report that the accused does not reside at the given address. On 06.07.2022, proclamation was ordered to be issued for 22.08.2022. On 22.08.2022, proclamation was received back effected but mandatory period of 30 days had not elapsed and as such, the case was adjourned to 12.09.2022 for recording the statement of Serving Constable and awaiting appearance of the accused. On 12.09.2022, the statement of Serving Constable was recorded and the petitioner accused was declared a proclaimed person. Learned counsel contended that after marriage, petitioner went to Canada on 18.09.2020 and since then, she is residing there and as such she has not willfully evaded the proceedings. Learned counsel next contended that the order issuing proclamation is silent about the conditions mentioned in Section 82 Cr.P.C. Furthermore, no proclamation had been issued against the accused for 12.09.2022 and as such, she did not have any knowledge that she was required to appear before the Court on 12.09.2022 and impugned order dated 12.09.2022, vide which she has been declared Proclaimed Person is thus illegal and nonest and is liable to be set aside.

4. Learned counsel further contended that as per order dated 22.08.2022, proclamation issued against accused was received back executed and on 12.09.2022, statement of serving constable was recorded in which he stated that the accused was not present at the house and thereafter, he had pasted one copy of the proclamation at the given address, one copy at the bus stand of the village of the accused and one copy at the notice Board of the Court. However, the proclamation was



not publicly read in some conspicuous place of the town where the accused resided and it was thus violation of provisions of Section 82(2)(i) (a) of Cr.P.C and on this score also, proclamation is invalid and a nullity and proceedings under Section 82 of Cr.P.C are thus liable to be quashed. In support of his contentions, learned counsel has placed reliance upon 2022(1) Law Herald 219 – *Rahul Dureja and another Vs. State of Punjab*, 2021(1) RCR (Criminal) 493 – *Harvinder Singh Vs. State of Haryana and another*, 2024(1) Law Herald 859 – *Mahender Kumar Vs. Housing Development Finance Corporation Ltd.*, 2024(1) Law Herald 291 – *Ramandeep Singh Sangha @ Ramna Sangha Vs. State of Punjab*, and 2024(2) RCR (Criminal) 5- *Sukhjinder Singh Vs. State of Punjab and another*.

5. On the other hand, learned State counsel has argued that the petitioner could not be served when her non-bailable warrants were issued and thereafter, proclamation under Section 82 Cr.P.C. was ordered to be issued and she was declared Proclaimed Person. Learned State Counsel has contended that the impugned order is well reasoned and speaking and does not call for any interference and petition deserves to be dismissed.

6. Before proceeding further, relevant orders dated 06.07.2022, 22.08.2022, 12.09.2022 and statement of the Serving Constable are reproduced as under:-

“Order dated 06.07.2022

Non-bailable warrants of accused Bhupinder Kaur received back unserved with the report that accused do not reside at the given address. Today ASI Bant Singh No.518/BNL PS Bhadaur appeared and suffered a statement that the accused



Bhupinder Kaur is evading the process and has changed her residential address. He further stated that arrest warrants issued against the accused are not being executed despite numerous efforts and requested for issuance of proclamation warrants against the accused Bhupinder Kaur. Report of Ahlmad was also called. In view of the statement suffered by ASI Bant Singh let proclamation warrants of the accused Bhupinder Kaur be issued for 22.08.2022.

JMIC/Barnala, UID No.PB0619

Order dated 22.08.2022

Proclamation warrants issued on behalf of accused Bhupinder Kaur received back executed but 30 days has not elapsed. Now to come up on 12.09.2022 for recording the statement of serving official and awaiting appearance of accused Bhupinder Kaur.

JMIC/Barnala, UID No.PB0619

Statement of Serving Constable

It is requested that I C. received proclamation on 03.08.2022. On 04.08.2022 for affecting proclamation, I reached on the given address of accused, where accused was not found present. Their house was locked. Once copy of proclamation was affixed on main gate of residential house of accused&s second copy was affixed as Bus Stand of village of accused & third copy on notice board of Hon'ble Court. Fourth copy, after affecting proclamation, is being sent back to Hon'ble Court. After affecting proclamation, report is presented.

Order dated 12.09.2022

Proclamation issued against the accused Bhupinder Kaur received back already effected on dated 04.08.2022. Statement of Serving Constable C Lakhvir Singh to that effect has been recorded today. Case has been called for several time since morning, but none appeared on behalf of accused Bhupinder Kaur. Court time is likely to be over now.



No further wait is justified. Requisite period of 30 days as mentioned in Section 82 of Cr.P.C. has already been elapsed. Therefore, accused Bhupinder Kaur is hereby declared as proclaimed person. Necessary intimation in this regard be sent to PS concerned. Now to come upon 19.09.2022 for furnishing list of property of accused.

JMIC/Barnala, UID No.PB0619”

7. A Coordinate Bench of this Court while deciding CRM-M-41656-2023 titled ***Pardeep Kumar Vs. State of Haryana*** vide judgment dated 23.8.2023 has held that before issuance of proclamation under Section 82 of Cr.P.C., the Court must deliberate on its previous efforts to secure presence of the accused through other legally permissible means. These efforts encompass issuance of summons and the execution of bailable and/or non-bailable warrants against the accused. It is incumbent upon the Court to ascertain that individual in question has indeed absconded or is concealing himself to evade execution of warrants of arrest. It has been further held that phrase, ‘reasons to believe’ as articulated in Section 82 of Cr.P.C. signifies that the Court must derive its belief from the available evidence and material that the concerned person has absconded or is concealing himself to evade the execution of warrants of arrest. It has been further held that once proclamation is issued, it must be set forth in the proclamation as to where and when the concerned individual must present himself. A designated location and time must be stipulated. Importantly, the specific date and time for appearance should not be less than 30 days from the date of publication of the proclamation.



8. A perusal of the order dated 06.07.2022 shows that non-bailable warrants against the petitioner-accused were received back unserved with the report that the accused does not reside at the given address. On 06.07.2022, the Court observed that the accused cannot be served through non-bailable warrants and proclamation under Section 82 Cr.P.C. was ordered to be issued for 22.08.2022. However, no satisfaction was recorded by the trial Magistrate that accused has either absconded or is concealing herself to evade the warrants and that she cannot be served in ordinary manner and without recording satisfaction to this effect, the proceedings under Section 82 Cr.P.C. could not have been initiated against the accused.

9. Besides this, proclamation was issued and same was received back effected on 22.08.2022 but mandatory period of 30 days had not elapsed and as such, the case was adjourned to 12.09.2022 for recording the statement of Serving Constable and awaiting appearance of the accused. On 12.09.2022, the statement of Serving Constable was recorded and the petitioner accused was declared a proclaimed person. However, no proclamation had been issued against the accused for 12.09.2022 and as such, she did not have any knowledge that she was required to appear before the Court on 12.09.2022 as no proclamation had been issued against her for that date and she was, thus, misled and proper procedure, thus, has not been followed by not mentioning the designated location and time, where she was supposed to appear.

10. Furthermore, in his statement, the Serving Constable stated that the accused was not present at the house and thereafter, he had pasted one copy of the proclamation at the given address, one copy at the bus



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stand of the village of the accused and one copy at the notice Board of the Court. However, the proclamation was not publicly read in some conspicuous place of the town where the accused resided. A Coordinate Bench of this Court in ***Rahul Dureja's case (supra)***, has held that if there is non-compliance of mandatory provisions of Section 82(2)(i)(a) of Cr.P.C. and proclamation is not read publicly in same conspicuous place of the town or village where the accused ordinarily resides, the accused is deprived of the knowledge of proclamation and on this score, the proclamation notice is liable to be quashed. In ***Harvinder Singh's case (supra)***, it has been further held that if proclamation is not read publicly in the village where accused resided, it is not an irregularity but it renders proclamation and subsequent proceedings as nullity. On this score also, the proceedings initiated under Section 82 Cr.P.C. against the petitioner are invalid.

11. As a result of aforesaid discussion, I am of the considered opinion that proper procedure has not been followed by the trial Court while declaring petitioner a proclaimed person and the impugned order, thus, suffers from material irregularities and illegalities and the same is, thus, not sustainable and is liable to be set aside and accordingly, the present petition is allowed and the impugned order dated 12.09.2022 (Annexure P-7), vide which, the petitioner was declared proclaimed person is set aside.

12. Pending misc. applications(s), if any, shall also stand disposed of.

(YASHVIR SINGH RATHOR)
JUDGE

12.01.2026

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Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No