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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 1253/2026 & CRL.M.A. 5042/2026 (*for interim relief*)

NITIN SHARMA

.....Petitioner

Through: Mr. Akhil Saini, Advocate with
petitioner.

Versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Ajay Vikram Singh, APP.
SI Naresh Sharma, PS-Shahdara.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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17.02.2026

1. The petitioner has filed this petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, for the following reliefs:

“1. Pass an order of quashing/setting aside of NBW's and impugned order declaring petitioner as Proclaimed Offender dated 02.08.2025 passed by Ld. CJM, Shahdara District, Karkardooma Courts along with proceedings emanating therefrom in case bearing no. 'Cr Cases/6935/2022 in FIR No. 231 of 2022 registered at PS Shahdara', in the interest of justice; AND/OR

ii. Pass any other order(s) which deem fit and proper to this Hon'ble Court in the facts and circumstances of the matter, in the interest of justice.”

2. Mr. Ajay Vikram Singh, learned Additional Public Prosecutor appearing on behalf of the State, draws my attention to an order passed by a coordinate Bench in *Jagadish Das v. State* [CRL.M.C. 3755/2025, dated 30.05.2025] [hereinafter, “*Jagadish Das*”], in which also the



challenge was to issuance of process under Section 82 of the Code of Criminal Procedure, 1973, and the declaration of the accused therein as a proclaimed person by an order of the Magistrate. The accused had filed an application before the Magistrate's Court for cancellation of the order, but the application was dismissed on the ground that the Magistrate could not review the said order. This Court, however, held as follows:

*“6. Upon careful consideration of the submissions made and the material placed on record, it appears that learned CJM dismissed the petitioner's application solely on the ground that the recall of order dated 23.10.2024, whereby, the petitioner was declared a proclaimed person, would amount to review, which is beyond the trial court's jurisdiction. **However, the reasoning overlooks the well settled principle that trial court is empowered to examine the legality of the process leading to a proclamation under Section 82 Cr. P.C., especially if it is alleged that due process was not followed or the statutory requirements were not complied with.***

*7. **Even though, criminal court does not have power of review, the court can recall/cancel an order if the order has been passed without following the due process or if there is violation of any statutory mandate. The issuance of proclamation without service of warrants is a jurisdictional error.** A mechanical rejection of the application without dealing with the merits of the justification for non-appearance may result in miscarriage of justice. The learned CJM's refusal to revisit the process or assess compliance with the safeguards amounts to a failure to exercise jurisdiction vested in the court.”*

[Emphasis supplied.]

3. Mr. Akhil Saini, learned counsel for the petitioner, in fact submits that the petitioner has already filed an application seeking stay or cancellation of the impugned order dated 02.08.2025, and all proceedings arising therefrom, before the Chief Judicial Magistrate. He draws my attention to paragraph 14 of the petition to this effect.

4. In view of the aforesaid, Mr. Saini seeks permission to withdraw this petition at this stage, with liberty to pursue the aforesaid remedy.



5. The petition, alongwith pending application, is dismissed as withdrawn, with liberty as aforesaid.
6. It is made clear that this Court has made no comment on the merits of the matter and the rights and remedies of the parties remain reserved.

PRATEEK JALAN, J

FEBRUARY 17, 2026

'Bhupi'/AD/