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

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CRM-M-19730-2025 (O&M)
Date of decision: 09.04.2025

Inder Parkash Dogra**...Petitioner**

Versus

State of Punjab**...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Manoj Kumar Sharma, Advocate,
Mr. Parminder Singh, Advocate,
Mr. Shivam Sharma, Advocate and
Ms. Ritu Sharma, Advocate
for the petitioner.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioner under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 for quashing of order dated 10.10.2012 (Annexure P-5), passed by the Court of learned Judicial Magistrate First Class, Hoshiarpur in Criminal Complaint No. 148 dated 29.03.2005, filed under Sections 302, 201, 506 and 34 of IPC, whereby the petitioner had been declared a proclaimed person.

2. It is argued by learned counsel for the petitioner that he has been falsely implicated in the aforementioned case. The complainant has got registered an FIR bearing No. 226 dated 28.12.004, under Sections 302, 201 and 34 of IPC at Police Station Haryana. However, on an application filed by the prosecution, the petitioner was discharged from the said case, vide order dated 09.02.2005. Thereafter, the petitioner, on the same set of allegations, had filed the aforesaid complainant, which was not in the knowledge of the petitioner as the petitioner was residing abroad. Similarly situated co-accused

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Baldev Kumar has been acquitted by the learned trial Court, vide judgment dated 10.02.2015. The petitioner could not appear before the Court as he was never served with any notice/warrants issued by the learned trial Court. More so, the petitioner had been declared a proclaimed person without following the proper procedure prescribed under Section 82 of Cr.P.C. He is ready to join the Court proceedings. Hence, it is urged that the impugned order is liable to be set aside.

3. I have heard learned counsel for the petitioner at considerable length and have also gone through the material placed on record.

4. On giving due deliberations to the contentions as raised by learned counsel for the parties and on an overall perusal of the orders passed by the learned trial Court from the date of initiating proceedings under Section 82 Cr.P.C. as against the petitioner till the date of declaring him a proclaimed person, I am of the considered opinion that the impugned order dated 10.10.2012 suffers from material illegalities and is liable to be quashed with all the consequential proceedings arising therefrom.

5. After going through the material placed on record as well as the copies of zimni orders passed by the learned trial Court, it is revealed that on 03.09.2012, since the non-bailable warrants issued against the petitioner were received back unserved, the learned trial Court had ordered for issuance of proclamation against him for 26.09.2012 by way of publication in newspaper i.e. Times of India. A bare perusal of this order shows that the learned trial Court before ordering for publication of proclamation has not recorded its proper satisfaction that that the petitioner had absconded or was concealing himself so that the warrant of arrest, previously issued, cannot be executed,

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despite reasonable diligence, which was in violation of the provisions of Section 82(1) of Cr.P.C. Reliance in this regard can be placed upon ***Rohit Kumar Vs. State of Delhi : 2008 CrI. J. 2561***. Further, as per Section 82(2)(ii) of Cr.P.C., 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. However, the learned trial Court has only resorted to publication in the newspaper, which was not in accordance with the provisions of Section 82 of Cr.P.C.

6. A perusal of order dated 03.09.2012 itself reveals that the petitioner was reported to be residing abroad. However, no efforts whatsoever were made by the Court concerned to know about the address of the petitioner in abroad, where the process could be sent to him. No letter to Ministry of External Affairs qua service of notice/warrants/proclamation against the petitioner is shown to have been written by the trial Court. As such, it can reasonably be presumed that the process never reached the petitioner and hence, he had no occasion to conceal himself. As such, the action of the trial Court by switching to the proclamation proceedings under Section 82 Cr.P.C. can itself be stated to be bad in the eyes of law. Reliance in this context can be placed upon ***Manjit Kaur vs. State of Punjab : 2013 SCC Online (P&H) 8663***.

7. Accordingly, in view of the discussion as made above and also in view of the ratio of law as laid down in above cited authorities, the present petition is allowed and the impugned order dated 10.10.2012 (Annexure P-5), passed by the Court of learned Judicial Magistrate First Class, Hoshiarpur in Criminal Complaint No. 148 dated 29.03.2005, filed under Sections 302, 201,

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506 and 34 of IPC, whereby the petitioner had been declared a proclaimed person, is quashed with all consequential proceedings arising therefrom.

8. Keeping in view the fact that the petitioner is ready to join the Court proceedings which would obviously help in speedy conclusion of trial, he is directed to surrender before the learned trial Court within a period of 04 weeks from today and on doing so, the learned trial Court shall release him on bail, subject to his furnishing personal/surety bonds to its satisfaction.

9. Till the appearance of the petitioner before the learned trial Court, his arrest shall remain stayed.

10. It is made clear that in case the petitioner fails to appear before the learned trial Court within the stipulated time, this petition shall be deemed to be dismissed.

09.04.2025

Wassem Ansari

**(MANISHA BATRA)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No