



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

CRM-M-11514-2024 (O&M)

Date of Decision: 07.07.2025

SUMIT KAPOOR ALIAS SANDY

...Petitioner

V/S

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Arpan Sabharwal, Advocate
for the petitioner.

Mr. Rishabh Singla, AAG Punjab.

Mr. Rahul Garg, Advocate for respondent No. 2.

HARPREET SINGH BRAR J. (Oral)

1. The present petition has been filed under Section 482 of Cr.P.C. seeking quashing of the order dated 21.03.2022 (Annexure P-2) passed by learned Judicial Magistrate Ist Class, Ludhiana vide which the petitioner has been declared as proclaimed person in FIR No. 0167 dated 05.05.2018 registered under Sections 323, 341, 506, 148 and 149 of Indian Penal Code at Police Station Model Town, District Police Commissionerate Ludhiana.
2. Learned counsel for the petitioner submits that petitioner is the only surviving accused in the FIR(supra) as 03 out of 05 accused have already been acquitted by the learned trial court and 01 accused namely Rohit has already died on 14.08.2023 and he has placed on record death certificate of said co-accused Rohit. Same is taken on record.
3. Following order was passed by a Co-ordinate Bench of this Court on 05.03.2024:

“The present petition is for quashing of the order dated 21.03.2022 in FIR No.0167, under Sections 323, 341, 506, 148 and 149 of IPC dated 05.05.2018, registered at Police Station Model Town, District Police Commissionerate, Ludhiana, whereby the petitioner was declared as



proclaimed person.

Learned counsel for the petitioner submits that, in fact, the matter had been verbally compromised and therefore, the petitioner did not follow up and more so, the other co-accused already stands acquitted vide judgment dated 07.07.2023 and it was only now that the petitioner came to know that he has been declared proclaimed person and has approached this Court. It is further submitted that the petitioner has entered into a compromise with the complainant, which was written on 03.01.2024 and on the strength of the above, he has filed an appropriate petition for quashing of the said FIR also.

Notice of motion.

Mr. Siddharth Attri, AAG, Punjab, accepts notice on behalf of the State.

At this stage, Mr. Rahul Garg, Advocate has put in appearance on behalf of respondent No.2 and does not deny the fact of compromise. However, learned State counsel prays for time to file his response.

Adjourned to 04.04.2024.

In the meanwhile, further proceedings arising out of the order dated 21.03.2022 shall remain stayed.”

4. Learned counsel further submits that petitioner was declared as proclaimed person vide the impugned order without following the proper procedure and the impugned order is liable to be set aside on the ground that the mandate of Section 82(1) of Cr.P.C. has not been followed in its letter and spirit by the trial Court as the warrants of arrest were never served to the petitioner. Moreover, the FIR(supra) has already been quashed by this Court on the basis of compromise vide order dated 07.07.2025 passed in CRM-M-10895-2024.

5. Learned State counsel supports the order passed by the learned trial Court by contending that the petitioner did not put in appearance before the trial Court intentionally and deliberately and, therefore, having left with no other option, proclamation was issued to secure his presence however, he



CRM-M-11514-2024 (O&M)

-3-

could not controvert the fact that FIR(supra) has already been quashed on the basis of compromise by this Court vide order dated 07.07.2025.

6. I have heard learned counsel for the parties and perused the record of the case with their able assistance and with the consent of parties, the matter is taken up for final disposal.

7. While the scheme of criminal justice system necessitates curtailment of personal liberty to some extent, it is of the utmost importance that the same is done in line with the procedure established by law to maintain a healthy balance between personal liberty of the individual-accused and interests of the society in promoting law and order. Such procedure must be compatible with Article 21 of the Constitution of India i.e. it must be fair, just and not suffer from the vice of arbitrariness or unreasonableness.

8. A perusal of the impugned order reveals that the trial Court issued proclamation without recording reasons of its belief that the petitioner has absconded or is concealing himself. This Court in the judgment passed in ***Major Singh @ Major Vs. State of Punjab 2023 (3) RCR (Criminal) 406; 2023 (2) Law Herald 1506*** has held that the Court is first required to record its satisfaction before issuance of process under Section 82 of Cr.P.C. and non-recording of the satisfaction itself makes such order suffering from incurable illegality. In the judgment passed by this Court in ***Sonu Vs. State of Haryana 2021 (1) RCR (Crl.) 319***, it has been held that the conditions specified in Section 82 (2) Cr.P.C. 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.



CRM-M-11514-2024 (O&M)

-4-

9. The sole purpose of issuance of non-bailable warrants or issuance of proclamation is to secure presence of the accused before the trial Court.

10. In view of the aforesaid facts and circumstances, the present petition is allowed. The impugned order dated 21.03.2022 (Annexure P-2) vide which the petitioner was declared proclaimed person, is hereby set aside along with all consequential proceedings arising therefrom.

07.07.2025
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No