



CRM-M-13698-2025 (O&M)

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

Sr. No.129

CRM-M-13698-2025 (O&M)
Date of decision : 27.03.2025

Amandeep Singh

..... Petitioner

VERSUS

State of Punjab and another

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Ranbir Singh Rawat, Advocate for the petitioner.

Mr. Davinder Bir Singh, Senior DAG, Punjab.

KIRTI SINGH, J. (Oral)

1. The prayer in the present petition filed under Section 528 of Bhartiya Nagarik Suraksha Sanhita, 2023 is for quashing of order dated 01.07.2022 (Annexure P-4) passed by the learned Sub Divisional Judicial Magistrate, Mukerian vide which the petitioner was declared as proclaimed offender in case FIR No.19 dated 13.02.2021, under Sections 323, 342, 406, 498-A and 506 IPC (later on Sections 342, 406 and 506 IPC were deleted and Section 313 IPC was added), registered at Police Station Mukerian, District Hoshiarpur.

2. The case of the petitioner is that abovesaid FIR was lodged on the basis of complaint filed by respondent No.2 against the petitioner alleging that the family members of the petitioner were harassing the complainant for demand of dowry. He submits that the petitioner had left the country on 14.02.2021, however, the learned Trial Court without complying with the provisions under Sections 82 and 105 Cr.P.C., vide order dated 01.07.2022 declared the petitioner as a proclaimed offender. He submits that even a compromise stands effected between the parties for which he



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places reliance upon the compromise deed dated 16.11.2024 (Annexure P-6). Counsel for the petitioner further submits that the petitioner is coming back to India and is ready and willing to join the trial.

3. *Per contra*, learned State counsel, has submitted that the petitioner, despite the proclamation, has failed to appear before the trial Court and has been rightly declared a proclaimed offender vide the impugned order and in addition, the petitioner is evading the process of Court which is highly deprecated on her part and in view of above, he does not deserve the concession.

4. Heard the submissions made by respective learned counsels for the parties.

5. According to the averments, the petitioner had left for Portugal and though the non-bailable warrants were issued against the petitioner, same were received back unserved.

6. A person cannot be said to “*abscond*” or “*evade*” the execution of warrant when he had gone to a distant place before the issue of the warrant. Dependence can be made on the judicial dictum rendered in the case of “*M.S.R. Gundappa v. State of Karnataka*” (1977 Cr LJ NOC 187), wherein it was held that a person who had gone abroad even before the issue of the warrant of arrest cannot be said to be absconding or concealing himself with the intention to disrupt the execution of that warrant.

7. Reliance can also be placed upon the judgment of this Court rendered in CRM-M-1513-2009 tiled as “*Mehar Singh And Anr. vs State of Punjab*” wherein it was held as under:

“In the present case, since the petitioners were already residing in Canada before the registration of FIR in question i.e. since the year 1997, there was no



occasion for them to conceal themselves or abscond. A perusal of order dated 7-10-2008 (Annexure P-10) and order dated 21-12-2007 (Annexure P- 4) does not reveal that the petitioners were ever attempted to be served in Canada especially when there was no material on record that the petitioners had left the country after the registration of FIR in question with a view to abscond or conceal themselves. Rather in the inquiries conducted by the police, the petitioners were found to be innocent because the alleged papers in question were prepared in Canada. Thus, the petitioners were declared proclaimed offenders in violation of Section 82, Criminal Procedure Code. Accordingly, the impugned order dated 7-10-2008 (Annexure P-10), whereby the petitioners were declared proclaimed offenders, is set aside.”

8. Learned trial Court has not made any effort to effect personal service of the petitioner through the embassy of India located in the concerned country where the petitioner was residing at the relevant time. Thus, making it clear that the impugned order was not passed in consonance with the mandate of Sections 82 & 105 of Cr.P.C. and is not sustainable in the eyes of law. Further, the parties have compromised the matter and have even preferred a petition bearing No.**CRM-M-13472-2025** seeking quashing of above stated FIR, which is pending before this Court.

9. Therefore, in light of the afore-said judicial pronouncements and discussions made hereinabove, this Court is of the firm view that the impugned order dated 01.07.2022 (Annexure P-4), vide which the petitioner has been declared proclaimed offender, is not sustainable in the eyes of law.

10. In view of the above, the present petition stands allowed and the impugned order dated 01.07.2022 (Annexure P-4) is set aside/quashed



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subject to payment of Rs.30,000/- to be deposited in Poor Patient Welfare Fund, PGIMER, Chandigarh. However, the petitioner is directed to surrender before the Court concerned within a period of one month and move an appropriate application alongwith receipt of cost and the trial Court concerned would release the petitioner on the bail bonds and surety bonds to its satisfaction. In case he fails to appear before the trial Court on the said date, this order would be of no avail to the petitioner.

11. Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

27.03.2025

Kapil

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No