

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

CRM-M-27431-2024 (O&M)

Date of Decision: 07.07.2025

JAGMOHAN SINGH

...Petitioner

V/S

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sukhdeep Singh, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

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 11.04.2023 (Annexure P-4) passed by learned Judicial Magistrate Ist Class, Safidon vide which the petitioner has been declared as proclaimed person in complaint case bearing No. NACT 194/2018 dated 19.03.2018 under Sections 138 of Negotiable Instruments Act, 1881.

2. Learned counsel for the petitioner submits that the petitioner could not appear before the learned trial Court due to unavoidable circumstances. Upon his non-appearance, the learned trial Court declared the petitioner as proclaimed person vide order dated 11.04.2023(Annexure P-4). It is further submitted that a settlement has been arrived at between the petitioner and the complainant, whereby, the petitioner has paid the entire cheque amount to the complainant. Moreover, the complaint filed by the complainant also stands withdrawn as discernible from the order dated 17.11.2023 (Annexure P-5) passed by learned Sub Divisional Judicial Magistrate, Safidon. Learned counsel further contends that petitioner was declared as proclaimed person vide the impugned order without following the



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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.

3. 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to secure his presence however, he could not controvert the fact that main complaint case has already been dismissed as withdrawn vide order dated 17.11.2023 passed by learned SDJM, Safidon.

5. 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.

6. 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.

7. 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

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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.

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

9. In view of the aforesaid facts and circumstances, the present petition is allowed. The impugned order dated 11.04.2023 (Annexure P-4) 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