



CRM-M-4305-2025 (O&M)

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

S.No.117

CRM-M-4305-2025 (O&M)

Date of Decision : 7.8.2025

Davinder Singh @ Dappi @ Dampi

... Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present: Mr. J.S.Thakur, Advocate, for the petitioner.
Mr. Gorav Kathuria, DAG, Punjab

YASHVIR SINGH RATHOR, J. (Oral)

Present petition has been instituted under Section 482 of Cr.P.C. for quashing order dated 14.11.2019 passed by learned Judicial Magistrate, 1st Class, Phillaur whereby the petitioner has been declared proclaimed person in case bearing No.CHI/54/2016 titled Punjab State v. Deepak Kumar @ Deepa arising out of FIR No.85 dated 10.5.2015 under Sections 380, 457, 511, 411 IPC at Police Station Phillaur, District Jalandhar along with other consequential proceedings arising from the same.

2. I have heard the learned counsel for the petitioner as well as the learned State counsel and have gone through the material collected by the police during investigation.

3. Counsel for the petitioner argued that the petitioner has been wrongly declared a proclaimed person. He never received



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summons/warrants from the trial Court. The arrest warrants issued against him remained unexecuted and learned trial Court issued proclamation against the petitioner under Section 82 Cr.P.C. and ultimately, declared him proclaimed person without following due procedure. No efforts were made to secure his presence through other legally permissible means which include issuance of summons,ailable warrants or non-ailable warrants. No satisfaction was recorded by the learned trial Magistrate that the accused has either absconded or is concealing himself to avoid execution of warrants and he could not be served in ordinary manner. Learned Counsel next contended that the proclamation was ordered to be issued vide order dated 30.9.2019 for 11.10.2019 on which date, the proclamation was received back and thereafter, case was adjourned to 14.11.2019 for presence of the accused but infact no proclamation was issued for 14.11.2019 and on this account also, proper procedure has not been followed while declaring him a proclaimed person. Since proper procedure has not been followed, the impugned order is not only irregular but illegal and the learned counsel prayed that the impugned order dated 14.11.2019 be set aside.

4. On the other hand, learned State counsel argued that the petitioner was released on bail and he absented during the trial. Thereafter, numerous efforts were made to secure his presence through warrants of arrest which could not be executed and thereafter, the learned trial Court passed the order for initiating proceedings under Section 82 of Cr.P.C. and he was ultimately declared a proclaimed person. Learned State counsel argued that the impugned order is well reasoned and speaking one and does not call for interference and the petition deserves to be dismissed.



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5. Learned counsel for the petitioner has annexed various orders passed by the learned trial Court and the orders dated 21.8.2019, 9.9.2019, 30.9.2019, 11.10.2019 and 14.11.2019, which are taken on record, are reproduced as under : -

“In view of the averments made in the application, personal appearance of the accused Deepak is exempted for today only.

Accused Davinder absented himself without intimation. Now accused Davinder be summoned through NBW of arrest for 09.09.2019, remaining unexamined PWs also be summoned for the said date.”

Date of order : 21.08.2019

Today none appear on behalf of Davinder Kumar. Let accused Davinder Kumar be summoned through NBW of arrest for 30.09.2019.

Date of order : 09.09.2019

Non Bailable Warrants of arrest issued against accused Davinder Kumar not received back. It seems that accused intentionally did not appear in the Court. In these circumstances I am satisfied that accused cannot be served through ordinary manner. Let, he be again summoned through proclamation under Section 82-83 of the Cr.P.C. for 11.10.2019.

Date of order : 30.09.2019

Proclamation issued against accused Davinder Singh received back duly effected. But none appear on behalf of above said accused. Now to come up on



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14.11.2019 for awaiting the presence of the accused Davinder Singh.

Date of order : 11.10.2019

Today the case was fixed for awaiting presence of accused Davinder Singh. 30 days has already been expired but none appear on behalf of accused Davinder Singh. Earlier Davinder Singh was appearing before the Court but all of sudden he remained absent. Therefore, accused Davinder Singh @ Dampi s/o Gurmail Singh r/o Patti Takhra, Village Shankar, PS Sadar Nakodar, District Jalandhar be declared absconder from law. Necessary intimation in this regard be sent to SHO concerned. SHO, PS Phillaur further directed to register FIR u/s 174-A of IPC against accused Davinder Singh @ Dampi s/o Gurmail Singh, r/o Patti Takhra, Village Shankar, PS Sadar Nakodar, District Jalandhar.

Let case is adjourned for awaiting compliance report from SHO, PS Phillaur. PWs mentioned as Sr.no.6 and 10 be summoned for 28.11.2019.

Date of order : 14.11.2019”

6. Order dated 21.8.2019 shows that the accused absented on that date and his non-bailable warrants were issued but his bail was never cancelled and bonds were not forfeited.

7. On the next day, fresh arrest warrants were ordered to be issued but the order is silent as to whether any arrest warrants was issued for 9.9.2019 or not. On 30.9.2019 also, non-bailable warrant was not received back and the learned trial Court observed that it seems that the accused is not



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intentionally appearing and as such, he cannot be served in ordinary manner and initiated the proceedings under Section 82 of Cr.P.C. and proclamation was issued for 11.10.2019, on which, proclamation was received back duly effected and the case was adjourned to 14.11.2019 for awaiting his appearance on which date he was declared a proclaimed person. A Coordinate Bench of this Court while deciding CRM-M-41656-2023 titled **Pardeep Kumar v. State of Haryana** vide judgment dated 23.8.2023 has held that before issuance of proclamation under Section 82 of Cr.P.C., the Court must deliberate on its previous efforts to secure presence of the accused through other legally permissible means. These efforts encompass issuance of summons and the execution of bailable and/or non-bailable warrants against the accused. It is incumbent upon the Court to ascertain that individual in question has indeed absconded or is concealing himself to evade execution of warrants of arrest. It has been further held that phrase, 'reasons to believe' as articulated in Section 82 of Cr.P.C. signifies that the Court must derive its believe from the available evidence and material that the concerned person has absconded or is concealing himself to evade the execution of warrants of arrest. It has been further held that once proclamation is issued, it must be set forth in the proclamation as to where and when the concerned individual must present himself. A designated location and time must be stipulated. Importantly, the specific date and time for appearance should not be less than 30 days from the date of publication of the proclamation. As already mentioned above, the proclamation was ordered to be issued for 11.10.2019 vide order dated 30.9.2019 and not for period beyond 30 days when the proclamation was received back duly



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effected. On 11.10.2019, the case was adjourned to 14.11.2019 for awaiting presence of the accused but no such proclamation had been issued for 14.11.2019 and it was not set forth in the proclamation as to whether the accused has to appear before the Court on 14.11.2019 or not. Rather, when the proclamation was ordered to be issued vide order dated 30.9.2019, the same should have been adjourned beyond 30 days and the proclamation should have been published 30 days prior to the date fixed for appearance of the accused and both dates should have been mentioned in the proclamation notice itself.

8. As a result of the aforesaid discussion, I am of the considered opinion that neither efforts were made to secure presence of the petitioner by issuing summons, notice or bailable warrants nor any satisfaction was recorded that the accused has either absconded or is concealing himself to avoid the warrants. Besides this, period of 30 days was not stipulated in the proclamation when the accused was to appear. In these circumstances, proper procedure has not been followed and the impugned order suffers from material irregularity and illegality and the same is, thus, not sustainable and is liable to be set aside.

9. As a result of the aforesaid discussion, the present petition is accepted and the impugned order dated 14.11.2019, vide which, the petitioner was declared proclaimed person is set aside.

(YASHVIR SINGH RATHOR)
JUDGE

August 7, 2025

Paritosh Kumar

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No