**CRM-M-30030-2025****2**

aforesaid FIR.

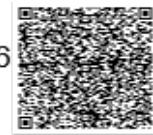
Learned counsel for the petitioner, while drawing attention of the Court to various zimni orders passed by the Trial Court, submitted that a report was received that the petitioner had been shifted abroad but without recording its satisfaction, as required under Section 82 Cr.P.C., the proclamation was ordered to be issued against the petitioner and thereafter, the petitioner was declared proclaimed offender vide order dated 04.10.2018, without making any effort to locate the address of the petitioner, where he was residing abroad.

It has also been submitted by learned counsel for the petitioner that all the other co-accused had been acquitted vide judgment dated 12.02.2019 as the material witnesses had turned hostile and did not support the case of the prosecution. It has further been submitted that the petitioner did not have any intention to avoid his appearance before the learned Trial Court, but due to his financial constraints, he had to go abroad for earning his livelihood. Now, the petitioner has come back to India and he is ready to surrender before the learned Trial Court.

Learned State counsel, on the other hand, while opposing the present petition, contended that the petitioner has been rightly declared proclaimed offender as he intentionally did not appear before the learned Trial Court despite having knowledge regarding pendency of proceedings against him.

I have heard learned counsel for the parties and have also gone through the case record.

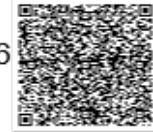
I find substance in the submissions made by learned counsel

**CRM-M-30030-2025****3**

for the petitioner that the proceedings before the Trial Court were not properly conducted as per provisions contained in Section 82 Cr.P.C. The proclamation was ordered in pursuance to order dated 24.08.2018, for causing appearance of the petitioner on 01.09.2018. As per Annexure P-4, proclamation was issued on 30.08.2018 for appearance on 01.09.2018. As per Annexure P-5, the statement of serving Constable, proclamation was effected on 31.08.2018. Gate of the house was found to be locked. As per Annexure P-7, on 01.09.2018, case was adjourned to 04.10.2018 for awaiting of accused. Thus, petitioner/accused was not given mandatory period of 30 days to appear before Court. The mere fact that Court adjourned it after the period of 30 days will not be treated as compliance of the provisions of Section 82(1) Cr.P.C.

Proclamation was carried out at the address, which the petitioner had already left as he had gone abroad. Thus, the proclamation was again in violation of the mandatory provisions under Section 82 Cr.P.C. Once the petitioner had already left his address and had gone abroad, then the primary effort of the Trial Court should have been firstly to locate his address, so as to make efforts to serve him, instead of issuing proclamation under Section 82 Cr.P.C. So, when the petitioner had already left the country, there was no practical purpose of issuing the proclamation on the same very address. Thus, in the present case, the proclamation proceedings under Section 82 Cr.P.C. were initiated at the address which the petitioner had already left, which was wholly uncalled for.

In view of the aforesaid facts and circumstances, it is held that the impugned order, vide which the petitioner has been declared

**CRM-M-30030-2025****4**

proclaimed offender, suffers from material illegalities and is set aside. The learned State counsel is not averse to the undertaking given by the petitioner that he is ready to surrender before the Trial Court. The petitioner is directed to appear before the learned Trial Court within a period of two weeks from today. On doing so, he shall be admitted to bail on furnishing bail bonds and surety bonds to the satisfaction of learned Trial Court.

Before parting with the judgment, it is made clear that if the petitioner fails to appear before the learned Trial Court, the interim protection granted by this Court shall be deemed to be vacated.

September 29, 2025*monika***(SUKHVINDER KAUR)
JUDGE**

<i>Whether speaking/reasoned ?</i>	<i>Yes/No.</i>
<i>Whether reportable ?</i>	<i>Yes/No.</i>