



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

125

CRM-M-1768-2025 (O&M)

Date of decision: 13.10.2025

Ravinderpal Singh @ Kuldeep Singh Dhaliwal ...Petitioner

Versus

State of Punjab and Anr

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Charanjit Sharma, Advocate for the petitioner.

Mr. M.S. Bajwa, DAG Punjab.

AMAN CHAUDHARY, J. (ORAL)

1. Prayer made in the present petition filed under Section 528 of Bhartiya Nagarik Suraksha Sanhita, 2023 is for setting aside/quashing impugned order dated 28.02.2012 passed by learned JMIC, Jagroan, vide which the petitioner was declared as proclaimed offender (Annexure P-7) as well as consequential of FIR No.52 dated 01.05.2008, under Sections 324, 34 and Section 326 (later on added), registered at Police Station Rajkot, District Ludhiana (Annexure P-1).

2. Learned counsel on instructions restricts himself only to the first prayer. In the above-noted FIR, co-accused Shingara Singh was declared innocent and not challaned, Dharminder Singh @ Binda had passed away and proceeding against him stood abated, while, co-accused Lakhvinder acquitted by the trial Court vide judgment dated 01.09.2016 (Annexure P-8). Petitioner got married in January, 2003 and in November 2003, he was blessed with a baby, whereafter, he in 2008 immigrated to Canada as his wife was a permanent resident and challan was presented in



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2010. He was however declared proclaimed offender vide order dated 28.02.2012, however, without following the procedure under Sections 41, 105 and 82 Cr.P.C. A further reference is made to a Notification issued by the Government of India Ministry of Home Affairs, IS Division-II:Legal Cell New Delhi, dated the 11th Feb, 2009, laying down comprehensive guidelines in this regard of reciprocal arrangements to be made by Central Government with the Foreign Governments with regard to the service of summons/warrants/judicial processes. The Ministry of Home Affairs has entered into Mutual Legal Assistance Treaty/Agreements with 22 countries including Canada which provide for serving of documents. The petitioner was not residing in the village, thus, the said process not having been complied with in letter and spirit, there being no direction to the accused to appear in 30 days or that he does not, he would be declared proclaimed offender, the proclamation proceedings are liable to be set aside. However, the petitioner is ready and willing to surrender before the trial Court for which he seeks only one opportunity, which may even be subject to imposition of costs or any other conditions, which this Court may deem appropriate. He submits that only 2 private witnesses remain to be examined and, thus, the trial Court be directed to conclude the case in a time bound manner.

3. Notice of motion.

4. At the asking of the Court, Mr. M.S. Bajwa, DAG Punjab accepts notice on behalf of respondent-State and submits that the trial Court has rightly passed the order as the petitioner did not appear before



the Court and evaded the proceedings.

5. Heard the learned counsel for the parties.

6. In the case of **Jasbir Kaur vs. State of Punjab and another**, CRM-M-25115-2022, decided on 2.6.2022, since the petitioner therein was a Non Indian Resident residing in Canada and proclamation proceedings had been initiated while she was not in India, as such, the order of proclamation was set aside.

7. Similarly, in **Jaswant Singh vs. State of Punjab and another**, CRM-M-32011-2018, decided on 6.2.2020, this Court in the interim order dated 10.9.2018, noticed the submission made by the counsel for the petitioner relying on the photocopy of the passport (Annexure A-1) that the petitioner was not in India at the time of registration of FIR on 29.10.2009, as well as, on the day, when he was declared proclaimed offender vide order dated 28.4.2014 and even on the date of passing of the above order, as he was in Italy, directed him to surrender before the trial Court, upon which interim bail was ordered to be granted to him.

8. It is apposite to refer to the provisions of Section 82 (1) Cr.P.C. which reads thus:-

“82. Proclamation for person absconding. -

(1) If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.

(2) xx xx xx xx



(3) xx xx xx xx.”

9. In the present case, proclamation was issued on 28.10.2011 and thereafter, affixation of the notice was made, whereby he was directed to appear before the Court on 05.01.2012. Since, the mandatory period of 30 days to appear before the Court had not elapsed, the case stood adjourned, for the period to be completed, which is in teeth of the law laid down in that regard. A gainful reference can be made to the judgment in **Ashok Kumar vs. State of Haryana and another**, CRM-M-13638-2013, decided on 05.08.2013, relevant para of which reads thus:

“A copy of the proclamation was also affixed at conspicuous part of the Court house, which means that the publication was effected on 9.2.2013 for 6.3.2013, which shows that after the publication of the notice, the accused was not given the mandatory period of 30 days to appear before the Court. The mere fact that the 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.”

10. The aforesaid judgment was relied upon in **Uttam Sharma vs. State of Punjab and another**, CRM-M-31481-2021, dated 29.09.2021, wherein the order of proclamation was set aside, as a clear 30 days time from the date of publication was not afforded before issuing absconding warrant against the accused as per the statutory provisions of Section 82 Cr.P.C.

11. In view of the above discussion, this Court finds that the requisite procedure as mandated by Section 82 Cr.P.C. was not completely followed in letter and spirit, thus, the continuation of proceedings would be an abuse of the process and deserve to be quashed,



as held in **Ramesh Chandra vs. State of U.P.**, 2022 SCC OnLine SC 1634.

12. The very purpose of issuance of summons, warrants etc. is to compel and secure the presence of the accused to face trial and establish the rule of law so as to ensure finalization of the proceedings.

13. Reverting to the facts of the present case inasmuch as it was because the petitioner had moved to Portugal for earning livelihood, prior to the passing of impugned order dated 28.02.2012, and the procedure as envisaged by the Code not followed in letter and spirit, he could not be served and as such, his explanation for absence appears to be justified. However, it is incumbent upon him to join the proceedings, before the trial Court, for the culmination of the same. Considering the facts and circumstances of the case, judgments referred to hereinabove, the readiness and willingness of the petitioner to surrender and join the proceedings, which was incumbent upon him for the culmination of the same, the present petition deserves to be and is allowed, in the interest of justice, so as to facilitate expediting the trial and for taking it to its logical end.

14. Accordingly, the present petition is hereby allowed. The impugned order dated 28.02.2012, Annexure P-7, is set aside, subject to surrender by the petitioner before the trial Court on or before 15.11.2025 and payment of costs of Rs.25,000/- to be deposited with the Chandigarh Spinal Rehab, Plot No.1, Sector 28-A, Chandigarh, having its account No.9611917899, IFSC Code-KKBK0004201. On furnishing bail/surety



bonds, the trial Court shall release him on bail subject to its satisfaction. He is also directed to furnish an undertaking by way of an affidavit that he will appear on each and every date of hearing before the trial Court, unless specifically exempted by the Court. He shall not leave the country without prior permission of the Court. The trial Court may impose any other condition that it may deem appropriate in the facts and circumstances of the present case. Till then, no coercive steps be taken against the petitioner and the trial Court is directed to conclude the trial expeditiously.

15. Disposed of accordingly.

16. Before parting with this order, it is made abundantly clear that in case the petitioner does not adhere to the aforesaid, the present petition shall be deemed to have been dismissed without any reference to this Court.

13.10.2025

Vishal Vardhan

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No