

2025:PHHC:078664



**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND  
HARYANA AT CHANDIGARH**

284

CRM-M-31148-2025 (O&amp;M)

Date of decision: 03.07.2025

**Radhika Vashishth****...Petitioner****Versus****State of Haryana and another****...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

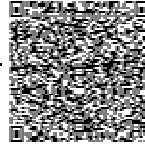
Present:- Mr. Jasinder S. Sekhon, Advocate  
for the petitioner.

**MANISHA BATRA, J. (Oral)**

1. The instant petition has been filed by the petitioner under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 for quashing of order dated 28.03.2025 (Annexure P-4), passed by the Court of learned Judicial Magistrate First Class, Kaithal in Complaint case bearing NACT No. 920 of 2019, titled as ***Rajbir Singh vs. Radhika Vashisht***, filed under Section 138 of the Negotiable Instruments Act (*for short 'N. I. Act'*), whereby the petitioner had been declared a proclaimed person.

2. The present petition has been filed by the petitioner on the grounds and it has been argued by her counsel that the impugned order is not sustainable in the eyes of law as while passing the same, the procedure as laid down in law was not followed properly. Even otherwise, on the basis of a compromise arrived at between the parties, the aforesaid complaint stands dismissed as withdrawn on 02.04.2025. Hence, it is urged that the impugned order is liable to be set aside.

2025:PHHC:078664



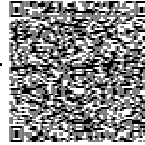
3. I have heard learned counsel for the petitioner at considerable length and have also gone through the material placed on record.

4. On giving due deliberations to the contentions as raised by learned counsel for the parties and on an overall perusal of the orders passed by the trial Court from the date of initiating proceedings of proclamation against the petitioner till the date of declaring him a proclaimed person, I am of the considered opinion that the impugned order suffers from material illegalities and is liable to be quashed with all the consequential proceedings arising therefrom.

5. There are catena of judgments of different High Courts discussing the requirements necessary for issuance and publication of proclamation against an absconder under Section 82 Cr.P.C. and for declaring him as a proclaimed person/offender. These requirements have been discussed from time to time in *Rohit Kumar Vs. State of Delhi : 2008 CrL J. 2561*, *Bishundayal Mahton and others Vs. Emperor : AIR 1943 Patna 366*, *Devender Singh Negi Vs. State of U.P. : 1994 CrL LJ (Allahabad HC) 1783*, *Gurappa Gugal and others Vs. State of Mysore : 1969 CriLJ 826*, *Shokat Ali Vs. State of Haryana : 2020(2) RCR (Criminal) 339*, *Dilbagh Singh Vs. State of Punjab : (P&H) 2015 (8) R.C.R. (criminal) 166*, *Ashok Kumar Vs. State of Haryana and another : 2013 (4) RCR (Criminal) 550*, *Pawan Kumar Gupta Vs. The State of W.B. : 1973 CriLJ 1368*, *Birad Dan Vs. State : 1958 CriLJ 965*, *Negi alias Debu Vs. State of U.P. and another, 1994 Cri LJ 1783* and *Pal Singh Vs. The State : 1955 CriLJ 318*.

6. After going through the material placed on record as well as the copies of zimini orders passed by the trial Court, it is revealed that after

2025:PHHC:078664



issuance of summoning order, notice was ordered to be issued against the petitioner/accused. The same could not be issued initially for want of compliance. Thereafter, there was outbreak of pandemic Covid-19 and hence, the summons could not be issued against the petitioner. Thereafter, summons were not issued as the complainant failed to furnish correct address of the petitioner. On 28.11.2024, counsel for the complainant submitted that the address of the petitioner was same as mentioned in the complaint and thenailable warrants were ordered to be issued, which were received back with the report that the petitioner had left the given address. Warrants of arrest were thereafter issued, which too had been received back unexecuted. The learned trial Magistrate, vide order dated 07.02.2025, gave direction for initiation of proceedings for publication of proclamation against the petitioner for 28.03.2025. By saying that presence of the petitioner could not be secured through ordinary process, the satisfaction so recorded by the trial Magistrate cannot be stated to be proper since no effective service of notice/bailable warrants/non-bailable warrants was proved to have been effected upon the petitioner till that date. As such, the action of the trial Court by switching to the proclamation proceedings can itself be stated to be bad in the eyes of law. Reliance in this context can be placed upon *Manjit Kaur vs. State of Punjab : 2013 SCC Online (P&H) 8663*.

7. Further, a perusal of the statement of the serving police official reveals that the proclamation was not read over in some conspicuous place of the town or village in which the petitioner was supposed to be residing. As per Section 82 (2) of the Cr.P.C.. for publication, the proclamation has to be first publicly read in some conspicuous place of the town or village in which

2025:PHHC:078664



the accused ordinarily resides; then the same has to be affixed to some conspicuous part of the house or homestead in which the accused ordinarily resides or to some conspicuous place of such town or village and thereafter a copy of the proclamation has to be affixed to some conspicuous part of the Court-house. The three sub-clauses (a)-(c) in Section 82 (2)(i) of the Cr.P.C. are conjunctive and not disjunctive, which means that there would be no valid publication of the proclamation unless all the three modes of publication are proved. Reliance in this regard can be placed upon *Pawan Kumar Gupta Vs. The State of W.B. : 1973 CriLJ 1368*.

8. Accordingly, in view of the discussion as made above and also in view of the ratio of law as laid down in above cited authorities, the present petition is allowed and the impugned order dated 28.03.2025 (Annexure P-4), passed by the Court of learned Judicial Magistrate First Class, Kaithal in Complaint case bearing NACT No. 920 of 2019, titled as *Rajbir Singh vs. Radhika Vashisht*, filed under Section 138 of the N. I. Act, whereby the petitioner had been declared a proclaimed person, is quashed with all consequential proceedings arising therefrom.

03.07.2025

*Waseem Ansari*(MANISHA BATRA)  
JUDGE*Whether speaking/reasoned**Yes/No**Whether reportable**Yes/No*