



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

205

CRM-M-7633-2023 (O&M)
Decided on : 02.09.2025

Ajay Kumar

. . .Petitioner

Versus

Kanwar Raja Ram and Another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Sushil Jain, Advocate for the petitioner.

AMAN CHAUDHARY, J. (Oral)

1. The present petition has been filed under Section 482 of Code of Criminal Procedure for quashing of impugned order dated 09.01.2023 (Annexure P-15) in criminal complaint No.NACT/789/2018 dated 12.07.2018 (Annexure P-2) titled as 'Kanwar Raja Ram Vs. Ajay Kumar', under Section 138 of Negotiable Instruments Act, passed by learned Judicial Magistrate First Class, Panchkula, whereby the petitioner was declared 'Proclaimed Person', under Section 82 of CrPC without there being services of notices/warrants and without following the due procedure established under law.

2. Learned counsel submits that the complaint under Section 138 of Negotiable Instruments Act was filed in the year 2019, wherein, he was summoned, however, since he had shifted from Samalkha to Sonapat due to job at Kundli, Sonapat in January, 2019, he did not receive the summons. Even, bailable warrants received back with the report that petitioner has left the given address, however, there being no direction to furnish correct address, again bailable warrants were issued, which were again received



back with the report of incomplete address and thereafter, non-bailable warrants were received back with the report 'not residing at the given address'. However, he was declared proclaimed person vide order dated 09.01.2023 without the proclamation having been published. Thus, provisions of Section 82 CrPC were not complied with and FIR under Section 174-A IPC was also registered. Vide order dated 13.09.2023, operation of the impugned order was stayed, whereupon he appeared before the trial Court and has been admitted to bail. However, the complaint itself was ordered to be withdrawn vide order dated 14.09.2024. Thus, the submission made is that continuation of the present proceedings would amount to abuse of process of Court. To buttress his submission, reliance is placed on the judgments of this Court in **Gurbir Singh Mundi vs. State of Punjab and another** CRM-M-49283-2021, decided on 16.12.2021.

3. Notice of motion.

4. At the asking of the Court, Mr. Parmod Kumar, AAG Haryana accepts notice on behalf of respondent-State and submits that the petitioner has rightly been declared proclaimed person for having absented, however, the factum of order dated 14.09.2024, whereby the complaint was withdrawn remained uncontroverted.

5. Heard.

6. In the case of **Gurbir Singh Mundi** (supra), it was held that provisions of Section 82(2) Cr.PC. are to be mandatorily complied with cumulatively and not alternatively. The Court had quashed the order declaring the petitioner therein as proclaimed person on the ground that



declaration was not read publicly in some conspicuous place of town or village, in which the accused ordinarily resides.

7. It is apposite to refer to the order dated 14.09.2024, passed by the trial Court, whereby the complaint in question itself was ordered to be dismissed as withdrawn, which reads thus:

“ In pursuance of letter No. 307-75/LA-III/2024/MS/HALSA dated 11.01.2024 passed by Haryana State Legal Services Authority, Panchkula and conveyed by Learned District & Sessions Judge, Panchkula vide letter No. 471-484 dated 12.01.2024, file put up before me in National Lok Adalat.

Today the case was fixed for consideration on the statement of complainant for withdrawal of the case.

As statement of withdrawal of the present case has already been recorded on 09.09.2024, in view of the statement so recorded, the instant complaint is hereby dismissed as withdrawn.

Further perusal of file reflects that on 25.04.2023 Satish S/o Jile Singh stood as surety for accused Ajay Kumar S/o Jai Kishan and the FDR bearing no. 066100PU00044563 of Rs. 30,000/- was furnished by the surety. It is evident from the perusal of file that the surety had furnished surety bonds for accused Ajay Kumar S/o Jai Kishan. Furthermore, case has been decided being dismissed as withdrawn. Therefore, the aforesaid FDR be released in favour of surety Satish S/o Jile Singh against proper receipt and identification after retaining a copy of the same on record Ahlmad is directed to send a copy of this order to the The Punjab National Bank, Plot no. 4, Sector 10, Dwarka New Delhi for releasing the FDR in favour of surety Satish. File be consigned to the record room, after due compliance.”

8. In the present case, the petitioner was declared a proclaimed person on 09.01.2023, however, during the interregnum, the main complaint itself stood withdrawn on 14.09.2024, hence this Court finds that continuation with the proceedings in question would amount to an abuse of the process of the Court and apparently, the procedure under Section 82



Cr.P.C was also not complied with.

9. Accordingly, the present petition is allowed and the impugned order dated 09.01.2023 passed by learned JMIC, Panchkula is hereby set aside.

(AMAN CHAUDHARY)
JUDGE

September 02, 2025

Vishal Vardhan

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No