



S. No.116

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

**CRM-M-49236 of 2025
Date of Decision:05.09.2025**

Baljit Kaur

.....Petitioner

Vs.

State of Punjab and another

.....Respondents

CORAM:- HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present:- Mr. Prateek Pandit, Advocate for the petitioner.

Mr. Gorav Kathuria, DAG, Punjab.

Yashvir Singh Rathor, J. (Oral)

Present petition has been instituted under Section 482 Cr.P.C/528 of BNSS, 2023 for quashing order dated 29.11.2021 (Annexure P.13) passed by learned Sub Divisional Judicial Magistrate, Sultanpur Lodhi, Kapurthala whereby the petitioner has been declared as a proclaimed person in case bearing NACT-158-2019 dated 08.04.2019 titled "Balkar Singh Vs. Baljit Kaur" along with other consequential proceedings arising from the same.

2. Upon notice, the State Counsel has appeared. Both the parties have been heard and material placed on the file has been perused.

3. Learned counsel for the petitioner has contended that the petitioner has been wrongly declared as a Proclaimed Person. She never received any summons or warrants. She has been impleaded as Baljit Kaur wife of Sandeep Singh whereas her husband's name is Sukhdev Singh. Initially, the summons issued to her for 04.07.2019 was received back with the report that the address mentioned in the summons was incomplete and, thereafter, fresh/complete address



was never filed and she was served at the same address and on one date, it has been reported that her husband had met the executing constable but her husband's name has been mentioned as Sandeep Kumar which is incorrect and it is thus not clear as to whom the said process server or executing constable had met while making this report. Learned counsel had next contended that the learned Magistrate went on to observe in the order dated 09.09.2021 that since the husband of the accused had met the executing constable, accused must be having knowledge of the present proceedings and is not intentionally appearing before the Court and her presence cannot be secured through ordinary process and initiated the proceedings under Section 82 Cr.P.C., for 29.11.2021, on which date, she was declared a Proclaimed Person.

4. Learned counsel has next contended that the proclamation issued for 29.11.2021 which was allegedly published on 16.09.2021 was not publically read at a place where the petitioner ordinarily resided and there is non-compliance of the provisions of Section 82(2)(i)(a) Cr.P.C and on this account only, the proceedings under Section 82 Cr.P.C are liable to be declared invalid and quashed. In support of his contentions, learned counsel for the petitioner has placed reliance upon judgments of this Court in 2022(1) Law Herald 219 – **Rahul Dureja and another Vs. State of Punjab**, 2021(1) RCR (Criminal) 493 – **Harvinder Singh Vs. State of Haryana and another**, 2024(1) Law Herald 859 – **Mahender Kumar Vs. Housing Development Finance Corporation Ltd.**, 2024(1) Law Herald 291 – **Ramandeep Singh Sangha @ Ramna Sangha Vs. State of Punjab**, and 2024(2) RCR (Criminal) 5- **Sukhjinder Singh Vs. State of Punjab and another**.



5. On the other hand, learned State Counsel has argued that the petitioner could not be served when his non-bailable warrants were issued and thereafter, proclamation under Section 82 Cr.P.C. was ordered to be issued and she was declared a Proclaimed Person. Learned State Counsel has contended that the impugned order is well reasoned and speaking and does not call for interference and petition deserves to be dismissed.

6. The husband's name of the petitioner has been mentioned as Sandeep Kumar in the complaint case bearing NACT-158-2019, whereas her husband's name is not Sandeep Kumar and infact, it is Sukhdev Singh. In the summons issued for 04.07.2019, it was reported that the address of accused was incomplete and thereafter, no correct address has been furnished and non bailable warrants were issued and in the non-bailable warrants issued for 09.09.2021, it has been reported that husband of the accused had met and told that his wife has gone to meet her relatives and he will inform her of the next date of hearing and, thereafter, learned Magistrate has observed that accused is intentionally evading appearance and she cannot be served in ordinary manner and initiated the proceedings under Section 82 Cr.P.C. However, name of the person/husband who had met the executing constable has not been mentioned in the order dated 09.09.2021 and it thus cannot be ascertained as to whether the executing constable had met Sandeep Kumar or Sukhdev Singh. Thereafter, the proclamation was ordered to be issued for 29.11.2021 when she was declared as Proclaimed Person. Before declaring her a Proclaimed Person, statements of Mohan Lal Chowkidar of the Village and the Constable who had executed the proclamation were recorded which are reproduced as under:-



“Statement of Mohan Lal, Chowkidar village Georgepur, Sultanpur Lodhi age 58 years.

Statement of Mohan Lal, Chowkidar village Georgepur, Sultanpur Lodhi age 58 years.

Stated that I am resident of above address and I am chowkidar of my village and no every person of my village very well. In regard to the proclamation issued by the Hon’ble Court, by going alongwith police party one copy of proclamation was pasted on the main gate of house of Baljeet Kaur and one copy was published in the chowk on the way. I have given my statement and heard the same. It is correct.

Ex.P2
SDJM/SPL
16.09.21

LTI Mohan Lal

Sir,

It is respectfully submitted that in regard to proclamation issued by Hon’ble Court, by taking along the concerned chowkidar Mohan Lal, one copy of proclamation was affixed on the main gate of the house and one copy of proclamation was affixed on the chowk on the public path and one copy of proclamation was affixed on the notice board of the court complex.

Report is presented.

S/CT
Jarnail Singh
P.S. Sultanpur Lodhi
Dated: 16.9.21”



8. A perusal of the afore-said statement goes to show that the proclamation was not publically read in some conspicuous place of the town or village where the accused ordinarily resided and it has been simply mentioned that one copy of proclamation has been pasted at the main gate of the house of petitioner and one copy has been affixed on the notice board of the Court complex. However, there is a total non-compliance of the provisions of Section 82(2)(i)(a) as the proclamation has not been read publically in some conspicuous place of the village where the accused resided. In **Rahul Dureja's case (supra)**, it has been held that if there is non-compliance of mandatory provisions of Section 82(2)(i)(a) and the proclamation is not read publically in some conspicuous place of the village where accused resided, accused cannot have knowledge of the proclamation and the proclamation is invalid and a nullity and proceedings under Section 82 Cr.P.C are liable to be quashed.

9. As a result of afore-said discussion, it is held that proper procedure has not been followed by the learned trial Magistrate while declaring the petitioner as a Proclaimed Person and accordingly, the impugned order is not sustainable and is liable to be set aside. Accordingly, the present petition is allowed and the impugned order dated 29.11.2021 is quashed.

(Yashvir Singh Rathor)
Judge

September 05, 2025

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Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No