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

CRM-M-61783-2024 (O&M)

Date of decision: 27.11.2025

KANWALJIT SINGH HAER AND OTHERS

..... PETITIONERS

VERSUS

STATE OF HARYANA AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MS. JUSTICE SHALINI SINGH NAGPAL

Present: Mr. Kamal Deep Singh Sidhu, Advocate and
Mr. Randhir S. Mangat, Advocate
for petitioners.

Ms. Kanica Sachdeva, DAG, Haryana.

Ms. Parul, Advocate for respondent No.2.

SHALINI SINGH NAGPAL J.

1. The petition under Section 528 of Bharatiya Nagrik Suraksha Sanhita, 2023 is for quashing order dated 30.11.2017 of learned Chief Judicial Magistrate, Karnal declaring petitioners "proclaimed persons" in FIR No.642 dated 21.06.2016 under Sections 406, 420, 498-A and 120-B Indian Penal Code, Police Station Karnal City, District Karnal. Petitioners further pray that the subject FIR and all consequential proceedings arising therefrom be quashed, in view of compromise dated 25.09.2024.

2. Learned counsel for the petitioners submits that marriage of petitioner Manmeet Singh and respondent No.2 was solemnized on 29.11.2015. After marriage, petitioners No.4 and 5 left the country for New Zealand on 22.12.2015, while petitioners No.1, 2, 3 and 7 left for New Zealand on 24.12.2015 and petitioner No.6 left India on 10.02.2016,



whereafter they never returned. On complaint of respondent No.2, FIR was registered under Sections 406, 420, 498-A and 120-B Indian Penal Code against the petitioners. At the time of registration of FIR also, petitioners were abroad. Police moved an application before learned CJM, Karnal and warrants of arrest were issued against petitioners which remained unexecuted, whereafter, learned CJM, Karnal ordered issuance of proclamation at their Ludhiana address. Impugned order dated 30.11.2017 declaring the petitioners, proclaimed persons was not in consonance with law as the proclamation was not published at the place where petitioners were ordinarily residing. The warrants as well as the proclamation were sent at Ludhiana address, though it was well within the knowledge of the complainant, police as well the Court that all petitioners were abroad. No effort was made to serve petitioners in New Zealand through diplomatic process. There was no report of any official that petitioners were concealing themselves or were absconding. Even Section 82(1) Cr.P.C. was violated inasmuch as 30 days clear notice was not given to the petitioners to appear after publication of the proclamation.

3. Learned counsel next submits that vide order dated 10.07.2025 of this Court, operation of order dated 30.11.2017 declaring petitioners proclaimed persons was stayed, parties were directed to appear before learned trial Court and their statements were recorded through Video Conferencing. The matter had since been resolved amicably between petitioners and respondent No.2, therefore, impugned order dated 30.11.2017 as well as FIR No.642 dated 21.06.2016 under Sections 406, 420, 498-A and 120-B Indian Penal Code, Police Station Karnal City, District Karnal deserved to be quashed.



4. Learned State counsel submits that petitioners were proclaimed persons and had not even joined investigation. Petitioners were rightly declared proclaimed persons after following due process, on the basis of address given.

5. Section 82 Cr.P.C. which provides for publication of proclamation against a person absconding is reproduced hereunder for the facility of reference:-

—(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) The proclamation shall be published as follows:-

(i) (a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;

(b) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village;

(c) a copy thereof shall be affixed to some conspicuous part of the Court-house;

(ii) the Court may also, if it thinks fit, direct a copy of the proclamation to be published in a daily newspaper circulating in the place in which such person ordinarily resides.

(3) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly



published on a specified day, in the manner specified in clause (i) of sub-section (2), shall be conclusive evidence that the requirements of this section have been complied with, and that the proclamation was published on such day. 50 1

[(4) Where a proclamation published under sub-section (1) is in respect of a person accused of an offence punishable under section 302, 304, 364, 367, 382, 392, 393, 394, 395, 396, 397, 398, 399, 400, 402, 436, 449, 459 or 460 of the Indian Penal Code (45 of 1860), and such person fails to appear at the specified place and time required by the proclamation, the Court may, after making such inquiry as it thinks fit, pronounce him a proclaimed offender and make a declaration to that effect.

(5) The provisions of sub-sections (2) and (3) shall apply to a declaration made by the Court under sub-section (4) as they apply to the proclamation published under sub-section (1).]

6. A co-ordinate Bench of this Court in **CRM-M-41715-2021** titled **“Anita Sharma Vs. State of Punjab”**, date of decision **26.03.2021**, has summarized the essential requirements of Section 82 Cr.P.C. as under:-

*“(i) Prior issuance of warrant of arrest by the Court is sine qua non for issuance and publication of the proclamation and the Court has to first issue warrant of arrest against the person concerned. (See **Rohit Kumar Vs. State of Delhi**: 2008 CrI. J. 2561).*

(ii) There must be a report before the Court that the person against whom warrant was issued had absconded or had been concealing himself so that the warrant of arrest could not be



*executed against him. However, the Court is not bound to take evidence in this regard before issuing a Proclamation under Section 82 (1) of the Cr.P.C.. (See **Rohit Kumar Vs. State of Delhi**: 2008 CrI. J. 2561).*

*(iii) The Court cannot issue the Proclamation as a matter of course because the Police is asking for it. The Court must be prima facie satisfied that the person has absconded or is concealing himself so that the warrant of arrest, previously issued, cannot be executed, despite reasonable diligence. (See **Bishundayal Mahton and others Vs. Emperor**:*

*AIR 1943 Patna 366 and **Devender Singh Negi Vs. State of U.P.**: 1994 CrI LJ (Allahabad HC) 1783).*

(iv) The requisite date and place for appearance must be specified in the proclamation requiring such person to appear on such date at the specified place.

*Such date must not be less than 30 clear days from the date of issuance an publication of the proclamation. (See **Gurappa Gugal and others Vs. State of Mysore** 1969 CriLJ 826 and **Shokat Ali Vs. State of Haryana**: 2020(2) RCR (Criminal) 339).*

(V) Where the period between issuance and publication of the proclamation and the specified date of hearing is less than thirty days, the accused cannot be

*4 of 8 declared a proclaimed person/offender and the proclamation has to be issued and published again. (See **Dilbagh Singh Vs. State of Punjab (P&II)**:*

*2015 (8) R.C.R. (criminal) 166 and **Ashok Kumar Vs. State of***



Haryana and another : 2013 (4) RCR (Criminal) 550)

*(vi) The Proclamation has to be published in the manner laid down in 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 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. (See **Pawan Kumar Gupta Vs. The State of W.B.:** 1973 CriLJ 1368). Where the Court so orders a copy of the proclamation has to be additionally published in a daily newspaper circulating in the place in which the accused ordinarily resides. Advisably, proclamation has to be issued with four copies so that one each of the three copies of the proclamation may be affixed to some conspicuous part of the house or homestead in which the accused ordinarily resides, to some conspicuous place of such town or village and to some conspicuous part of the Court-house and report regarding publication may be made on the fourth copy of the proclamation. Additional copy will be required where the proclamation is also required to be published in the newspaper.*



*(vii) Statement of the serving officer has to be recorded by the Court as to the date and mode of publication of the proclamation. (See **Birad Dan Vs. State**: 1958 CriLJ 965).*

*viii) The Court issuing the proclamation has to make a statement in writing in its order that the proclamation was duly published on a specified day in a manner specified in Section 82(2)(i) of the Cr.P.C.. Such statement in writing by the Court is declared to be conclusive evidence that the requirements of Section 82 have been complied with and that the proclamation was published on such day. (See **Birad Dan Vs. State**: 1958 CriLJ 965).*

*(xi) The conditions specified in Section 82(2) of the Cr.P.C. for the publication of a Proclamation against an absconder are mandatory. Any non-compliance therewith cannot be cured as an 'irregularity' and renders the Proclamation and proceedings subsequent thereto a nullity. (See **Devendra Singh Negi alias Debu Vs. State of U.P. and another** 1994 CriLJ 1783 and **Pal Singh Vs. The State**: 1955 CriLJ 318)".*

7. Copy of the FIR (Annexure P1) reveals that respondent No.2 herself disclosed therein that petitioners left the country for New Zealand. Order dated 14.09.2016 of learned CJM, Karnal shows that an application was moved for issuance of warrants of arrest against the petitioners whereupon warrants of arrest were issued for 25.11.2016. The warrants could not be executed and were issued again for 27.02.2017 and for 15.05.2017. On 31.08.2017, when warrants of arrest were again received back unexecuted, the Court ordered summoning of the petitioners through proclamation under Section 82/83 Cr.P.C. for 01.11.2017. Order dated



31.08.2017 does not record *prima facie* satisfaction that petitioners had absconded or were concealing themselves or that the warrants of arrest previously issued could not be executed. On this ground alone, the order under challenge deserves to be set aside.

8. Annexure P9 is the statement of SI Raghbir Singh 910, PP Ram Nagar, Karnal, who published the proclamation. The same reads as under:-

“It is stated that the accused in the above-mentioned case Manmeet Singh, Pritam Kaur, Avtar Singh, Simranjit Kaur, Harmanjit Singh, Rajwant Kaur and Kanwaljit Singh Residents of B-34-3931, Durgapuri, Habowal kalan Road, Ludhiana at present house no. 202 Nakau Street, New Zealand do not reside at their given address in Ludhiana Punjab. They reside in New Zealand. In this regard one copy of the Court order was pasted on the wall of their house on 25.10.2017, and second copy was put in front of the court and a report is presented on the third copy.”

9. It is apparent from the above that the executing official was well aware that petitioners were not residents of Ludhiana, Punjab and were residing in New Zealand. There is no material on record to show that any effort was made to serve the petitioners through Ministry of External Affairs and thus, issuance of proclamation by learned CJM, Karnal was not warranted in the case.

10. A Coordinate Bench of this Court in CRM-M-6246-2017 titled **“Sucha Singh Vs. State of Punjab”**, has observed as under:

“A person cannot be said to be “abscond” or “evade” the execution of warrant when he had gone to a distant place



before the issue of the warrant. Dependence can be made on the judicial dictum rendered in the case of "M.S.R. Gundappa v. State of Karnataka" (1977 Cr LJ NOC 187), wherein it was held that a person who had gone abroad even before the issue of the warrant of arrest cannot be said to be absconding or concealing himself with the intention to disrupt the execution of that warrant."

11. In **Mehar Singh and Another Vs. State of Punjab** CRM-M-1513-2019, this Court held as under:

"In the present case, since the petitioners were already residing in Canada before the registration of FIR in question i.e. since the year 1997, there was no occasion for them to conceal themselves or abscond. A perusal of order dated 7-10-2008 (Annexure P-10) and order dated 21-12-2007 (Annexure P-4) does not reveal that the petitioners were ever attempted to be served in Canada especially when there was no material on record that the petitioners had left the country after the registration of FIR in question with a view to abscond or conceal themselves. Rather in the inquiries conducted by the police, the petitioners were found to be innocent because the alleged papers in question were prepared in Canada. Thus, the petitioners were declared proclaimed offenders in violation of Section 82, Criminal Procedure Code. Accordingly, the impugned order date 7-10-2008 (Annexure P-10), whereby the petitioners were declare proclaimed offenders, is set aside."



12. Order dated 30.11.2017 is liable to be set aside for violation of Section 82(1) Cr.P.C. as well.

13. In **Dilbagh Singh @ Sonu Vs. State of Punjab CRM-M-4100-2015, date of decision 05.05.2015**, it was observed as under:

"In order to ensure that an accused should have a fair opportunity to appear, 30 days clear notice is necessary and the proclamation should be published in the manner provided by law. In the instant case, proclamation of the petitioner was issued on 20.08.2014 for 23.08.2014 and vide impugned order dated 25.09.2014 petitioner was declared proclaimed offender. It is apparent on the face of record that clear notice of 30 days as mandated under Section 82 Cr.P.C. has not been given to the petitioner and the procedure for publication of proclamation has also not been followed. Besides that, there is nothing on record to show that provisions of sub-section 2(i) of Section 82 Cr.P.C. have been complied with. As per these provisions a notice of proclamation is required to be read publicly in some conspicuous place of the town or village in which such person ordinarily resides. It is also required to be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village. A copy of the notice is also required to be affixed to some conspicuous part of the Court-house. Thus, petitioner has been wrongly declared proclaimed offender vide impugned order without following the procedure of law.



14. Similarly in **CRM-M-1866-2017 titled 'Avtar Singh Vs. State of Punjab and Another'** a Coordinate Bench of this Court observed as under:-

"The above quoted provision is clear that through the proclamation made prior to declaration of a person as a proclaimed offender, he should be given not less than thirty days from the date of its proclamation to appear at a specified place and a specified time.

In the case in hand, thirty days were not given to the petitioner to appear before the Trial Court as the proclamation was made on 13.05.2011 requiring him to appear before the Trial Court on 14.05.2011. Thus, the proclamation and the subsequent order dated 03.09.2011 (Annexure P-2) declaring the petitioner to be a proclaimed offender do not confirm with the mandate of Section 81(1) of the Code".

15. Vide order dated 31.08.2017 of learned CJM, Karnal, proclamation under Section 82/83 Cr.P.C. was issued for 01.11.2017. According to Annexure P9 statement of SI Raghbir Singh, proclamation was published on 25.10.2017. On 01.11.2017, proclamation was received back duly executed and statement of executing official was recorded. Apparently, 30 clear days were not afforded from the date of publication of the proclamation. The period between publication of proclamation and the specified date of hearing being less than 30 days, petitioners could not have been declared proclaimed persons and the proclamation was required to be issued and published again. Still further, the date of appearance in the proclamation being 01.11.2017, proceedings ought to have been taken on 01.11.2017 itself failing which, proclamation was required to be reissued.



Adjournment of the case from 01.11.2017 to 30.11.2017 was not sufficient compliance of Section 82(1) Cr.P.C. Thus, in view of ratio laid down by this Court in **Ashok Kumar Vs. State of Haryana and Another.2013 (4) RCR (Criminal) 550** and **Navneet Sharma Vs. State of Punjab and Others,2024 NCPHHC 10973**, it is held that the trial Court failed to comply with the mandate of Section 82(1) of Cr.P.C.

16. As per Section 82(2)(i)(a) Cr.P.C., notice of proclamation is to be publicly read in some conspicuous place of the town or village in which such person ordinarily resides. It also required to be affixed in some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village besides affixation on the Court-house.

17. It is evident from the statement of SI Raghubir Singh that the proclamation was not publicly read over in some place of town or village where petitioner resided. The three sub-clauses (a)-(c) in Section 82(2)(i) 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. All three sub-clauses are mandatory and any violation whereof entails quashing of the order declaring an accused, a proclaimed person/offender.

18. Consequently, impugned order of learned CJM, Karnal dated 30.11.2017 declaring petitioners “proclaimed persons” cannot be sustained in law and is hereby set aside and quashed.

19. On 10.07.2025, this Court directed the parties to appear before the trial Court/Illaq Magistrate for recording of their statements with regard to compromise.



20. In compliance of the order dated 10.07.2025, parties i.e. complainant and all accused persons appeared before learned Judicial Magistrate Ist Class, Karnal on 25.08.2025 through Video Conferencing. They were identified by their respective counsels. Statement of the Investigating Officer, SI Gulvinder Singh Belt No.669, Karnal, was recorded on 17.09.2025. Learned Judicial Magistrate Ist Class, Karnal has submitted his report recording satisfaction that all the parties have entered into a valid compromise without any influence or coercion. Point-wise report as under has been submitted:

"i. As per the statement of I.O. there was seven accused namely-1. Kanwaljit Singh, 2. Manmeet Singh, 3. Rajwant Kaur, 4. Harmanjit Singh Haer, 5. Simranjit Kaur Haer, 6. Avtar Singh 7. Pritam Kaur.

ii. As per the statement of I.O all the accused were not arrested as at the time of lodging the FIR as all the persons were residing in New Zealand. However, all the accused persons were declared proclaimed persons vide Court order dated 30.11.2017.

iii. The file was consigned to the record-room vide order dated 26.07.2024 as all the accused persons were declared proclaimed offenders vide Court order dated 30.11.2017. Thereafter, the file was fixed for evidence under Section 299 Cr.P.C., and the same was closed on 04.05.2019. The file was since then listed or filing the list of property of the accused which was not filed by the SHO concerned, and was finally consigned the record-room after making a red ink entry that the file not to be destroyed and be taken up as and when the



accused persons get arrested or surrenders before the Court.

iv. Yes, the compromise between the parties is valid and genuine and has been effected voluntarily without any coercion or undue influence.”

21. Learned State counsel along with counsel for respondent No. 2 have not raised any dispute regarding the factum of compromise. Since order dated 30.11.2017 has been set aside and the matter has been amicably resolved, continuation of the criminal proceedings would be an exercise in futility.

22. A Coordinate Bench of this Court in **Saroj Rani and Another Vs. State of Punjab and Another, CRM-M-5030 of 2021, date of decision 07.09.2022**, in similar circumstances, quashed the order declaring the accused proclaimed offender for non-compliance of mandate of Section 82 Cr.P.C. and also the FIR under Section 498-A and 406 IPC on account of amicable settlement of the matrimonial dispute. Following principles of law laid down by the Full Bench Judgment of this Court in “**Kulwinder Singh and others Vs. State of Punjab and another**” 2007(3) RCR (Criminal) 1052 and Hon’ble Supreme Court in “**Gian Singh Versus State of Punjab and others**”(2012) 10 SCC 303, FIR No.642 dated 21.06.2016 under Sections 406, 420, 498-A and 120-B Indian Penal Code, Police Station Karnal City, District Karnal, along with all the subsequent proceedings arising therefrom, are quashed qua the petitioners.

23. This order is subject to payment of costs of Rs.50,000/- to be deposited in Poor Patient Welfare Fund, Postgraduate Institute of Medical Education and Research (PGIMER), Chandigarh within one month from today.



24. The petition is allowed, on the terms above.
25. Pending miscellaneous applications, if any, stand disposed of.

(SHALINI SINGH NAGPAL)
JUDGE

27.11.2025
Sumit Singla

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No