



**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

153

CRM-M-59031-2025 (O&M)

DECIDED ON: 24.03.2026

SIMRAN KAUR DHANDI**.....PETITIONER****VERSUS****STATE OF PUNJAB & ANR.****.....RESPONDENTS****CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH**

Present: Mr. S.K. Chaudhary, Advocate for the petitioner.

Ms. Gagandeep Kaur, DAG Punjab.

Mr. G.S. Bhinder, Advocate for the respondent No.2.

SURYA PARTAP SINGH, J.

The order dated 29.10.2022 (Annexure P-14), hereinafter being referred to as 'impugned order', passed by the learned Judicial Magistrate First Class Pathankot, hereinafter being referred to as 'trial Court' only, is under challenge in the present petition. The present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, hereinafter referred to as 'BNSS' only.

2. By virtue of abovementioned order, the learned trial Court, during the trial for the commission of offence punishable under Section 138 of Negotiable Instruments Act, declared the petitioner to be a proclaimed person.



3. In nut-shell, the facts emerging from record are that the petitioner was facing a trial for the commission of offence punishable under Section 138 of NI Act and in the abovementioned case due to non-appearance on various occasions, the non-bailable warrants were issued against the petitioner. However, the same could not be executed as the petitioner was not living at that place.

4. Subsequently, vide order dated 17.05.2022, the learned trial Court issued proclamation against the petitioner for 03.09.2022. On 03.09.2022 proclamation issued against the petitioner was received back duly effected and the statutory period of 30 days' had elapsed. On that day, notice to serving Constable was issued for 29.10.2022 and on that day, by virtue of impugned order, the learned trial Court, after recording the statement of executing Constable, declared the petitioner to be a proclaimed person.

5. The present petition has been filed by the petitioner by alleging that the impugned order is not sustainable in the eyes of law and deserves to be quashed as the necessary procedure, prescribed under Section 84 of the BNSS (erstwhile Section 82 of CrPC), was not complied with, while declaring the petitioner a proclaimed person. In this regard, it has been specifically alleged by the petitioner that the proclamation was not publicly read, as required under the law.

6. **Notice of motion.**

7. Ms. Gagandeep Kaur, DAG Punjab appears on behalf of respondent-State. Hence service of notice upon the State is hereby dispensed with.



8. Mr. G.S. Bhinder, Advocate has put in appearance on behalf of the respondent No.2 and filed Power of Attorney. The same be taken on record.

9. Heard.

10. It has been contended on behalf of petitioner that the petitioner was never served with any summons as she had left the country in August 2021. As per learned counsel for the petitioner, the learned trial Court has committed an error, when without following due process it declared the petitioner to be a proclaimed person. According to learned counsel for the petitioner, one of the essential steps to be taken during the course of proclamation was the reading of proclamation at a public place, and that in the present case, the executing Constable had not publicly read the proclamation at a public place.

11. In addition to above, it has also been contended by learned counsel for the petitioner that no effort was made by the learned trial Court to serve the process upon the petitioner at her correct address, and that due to defective procedure adopted by the learned trial Court, in declaring the petitioner to be a proclaimed person, the impugned order is liable to be set aside.

12. The learned State Counsel has controverted the abovementioned arguments. He has contended that in the present case, the petitioner is a person, who right from the very beginning was aware of the pendency of criminal proceedings against her, but opted not to appear before the Court and remained absent for a long time. As per learned State Counsel, in view of above, the petitioner cannot derive any benefit from the technical



defect, if any, which might have occurred inadvertently, in the process of declaring the petitioner to be a proclaimed person.

13. The record has been perused carefully.

14. A perusal of the record shows that the petitioner has placed on record the copy of statement of executing official, recorded by the learned trial Court, before declaring the petitioner to be proclaimed person. The statement of executing official, namely ASI Pawan Kumar dated 02.06.2022, reads as under:-

“It is requested that three copies of proclamation of accused Simran Kaur Dhandi marked by SHO PS Division No.2 on 03/05/2022. That on 02/06/2022 after going to the given address of accused H.No. 10 Sunder Nagar, Dhangu Road, one copy of proclamation was pasted on the main door of house of the accused and on the same day second copy of proclamation was affixed on notice board of Hon’ble Court and third copy of proclamation along with my report is send back (illegible).”

15. A bare perusal of the above-mentioned statement of the executing official shows that the above-named executing official had not publicly read the contents of abovementioned proclamation. The order dated 29.10.2022 shows that on the basis of abovementioned statement of the executing official, the petitioner has been declared the proclaimed person.

16. With regard to the above-mentioned procedure adopted by the Executing Constable, it is relevant to mention here that Section 82(2) of CrPC lays down that following steps are necessary to be taken before declaring a person to be a proclaimed person:-

“(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.”*

17. With regard to mandatory nature of abovementioned procedure, it has been repeatedly observed by this Court, that the compliance of abovementioned provisions of Section 82(2) of CrPC is mandatory in nature. It has also been held that in case the above process is not followed in letter and spirit, the impugned order declaring a person to be a proclaimed offender/proclaimed person is defective.

18. In addition to above, it is also relevant to mention here that the statement of the executing Constable nowhere depicts that the proclamation was read over at a public place in the area where the petitioner ordinarily resides, as prescribed under Section 82(2)(i)(a) Cr.P.C., and the impugned order declaring the abovesaid person to be a proclaimed person is defective and not sustainable in the eyes of law.

19. This Court in the cases of ‘Jarnail Singh v. State of Punjab & Anr.’ CRM-M-27944 of 2024 and ‘Gagandeep Singh v. State of Punjab’ CRM-M-50704-2024, has observed that if a proclamation is not read at a conspicuous place of the town or village in which such person ordinarily resides, as prescribed under Section 82(2)(i)(a), the order declaring the



2026 PHHC:046237



2026:PHHC:046237

CRM-M-59031-2025 (O&M)

6

abovesaid person to be a proclaimed person/proclaimed offender is defective and not sustainable in the eyes of law. Similar view has been taken by this High Court in the cases of 'Pal Singh Santa Singh v. State' AIR 1955 Punjab 18 and 'Tajinder Singh v. State of Punjab' in CRM-M-21736-2024.

20. Taking into consideration the cumulative effect of the abovementioned factors, as there was a defect in affixation of proclamation, i.e. non-reading of proclamation in public place, the order dated 29.10.2022 passed by the learned trial Court is hereby held to be perverse, defective and unsustainable in the eyes of law.

21. As a sequel to abovementioned observations, the present petition is hereby ***allowed*** and the impugned order dated 29.10.2022 passed by the learned trial Court is hereby quashed.

22. Pending miscellaneous application(s), if any, shall stand disposed of.

24.03.2026*Gaurav Thakur***(SURYA PARTAP SINGH)
JUDGE**

Whether speaking/reasoned	:Yes/No
Whether reportable	: Yes/No