

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-40743-2012 (O&M)

Date of decision: 8.9.2015

Dinesh Bhadana

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. S.K. Garg Narwana, Senior Advocate with
Mr. Karan Garg, Advocate for the petitioner.
Mr. Sushil Gautam, DAG, Haryana.
Mr. Lokesh Sinhal, Advocate for the complainant.

Rajan Gupta, J. (oral)

This is a petition under section 482 Cr.P.C. seeking quashing of order dated 30.11.2012 (Annexure P-5), passed by the trial court, whereby petitioner was declared a proclaimed offender.

Learned senior counsel for the petitioner has vehemently contended that after being declared a proclaimed offender, petitioner appeared before the trial court and was enlarged on bail on 18.7.2013. Due to serious ailment, he remained admitted in All India Institute of Medical Sciences as well as in Batra Hospital, Delhi. According to him, order declaring him proclaimed offender is unsustainable as procedure prescribed under sections 82/83 Cr.P.C. was not followed.

Though learned State counsel has opposed the prayer, he does not dispute the fact that petitioner appeared before the trial court

before presentation of challan and was released on bail.

Learned counsel for the complainant has made submissions on similar lines. He has referred to order dated 29.6.2013, passed by Chief Judicial Magistrate, Faridabad, whereby it was directed that petitioner be released on bail subject to his furnishing bail bonds in the sum of Rs.50,000/- with one surety of the like amount.

I have heard learned counsel for the parties and given careful thought to the facts of the case.

FIR was registered against the petitioner on complaint of Gitanjali wife of Sachin Sharma, under sections 420, 467, 468, 471, 120-B IPC. It was alleged that petitioner had forged the agreement to sell in order to grab property of the complainant. Pursuant to the FIR, investigation ensued. However, petitioner failed to appear before the investigating agency or the trial court. Vide order dated 30.11.2012, he was declared a proclaimed offender. However, before investigation was completed, petitioner put in appearance before the Chief Judicial Magistrate, Faridabad and was released on bail. Operative part of the order passed by the court reads as under:-

“I have heard learned counsel for the accused as well as ld. APP for the State and perused the record carefully. The accused in this case was declared proclaimed offender and thereafter the case under Section 174-A IPC was registered against him. The accused approached the Hon'ble High Court and Hon'ble High Court has stayed the proceedings pending under section 174-A IPC. This court, therefore, is of the view that the Hon'ble High Court has already stayed the proceedings under Section 174-A and moreover, the investigation in this case has already been

completed and the trial is yet to be started and since, the accused himself surrendered in the court and accused was remained under medical treatment for a long period, therefore, taking into consideration the above facts and also taking the lenient view as the case is at the initial stage, therefore, accused is granted bail subject to furnishing bail bonds in the sum of Rs.50,000/- with one surety in the like amount. Requisite bail bonds and surety bonds furnished, accepted and attested.”

Apart from the fact that petitioner was released on bail vide aforesaid order, admittedly, he remained admitted in various hospitals due to certain medical complications, as a result of dengue fever contracted by him. Stand of the petitioner is that procedure prescribed under sections 82/83 Cr.P.C. was not followed. According to him, he was not available at his residence as he was admitted in the hospital on various dates. Thus, service could not have been effected. Admittedly, petitioner surrendered before the court below before presentation of challan and was enlarged on bail. Under the circumstances, order dated 30.11.2012, whereby petitioner was declared a proclaimed offender, is hereby set-aside. Petition is allowed subject to the condition that petitioner furnishes an undertaking before the trial court that he shall not remain absent from the proceedings on any date in future.

(RAJAN GUPTA)
JUDGE

8.9.2015
'Rajpal'