

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

CRM-M No.39010 of 2015

Date of Decision:-19.11.2015

Virender.

.....Petitioner.

Versus

State of Haryana.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Harish Bhardwaj, Advocate for the Petitioner.

JASWANT SINGH, J.(ORAL)

The petitioner has filed this petition under Section 482 Cr.PC to challenge the proceedings and the order dated 29.04.2014, whereby he was declared proclaimed person by the trial Court. Besides, the petitioner has also challenged the order dated 13.08.2015, passed by the trial Court whereby he has been charged for the offence punishable under Section 174-A IPC, which stood affirmed by the Court of Revision vide order dated 03.10.2015.

The petitioner had stood surety for accused Tofiq in case FIR No.189 dated 18.06.2011 under Sections 279 and 304-A IPC, P.S. Ganaur. The accused in the case absented and was declared proclaimed offender. To secure the presence of the accused, proceedings against the surety (petitioner) were initiated and the same could not yield any result as the surety also failed to appear.

In this background, the trial Court was constrained to initiate proceedings under Section 82 Cr.PC against the surety as well and it was on 29.04.2014 the surety (petitioner) was declared proclaimed person. Subsequently, the trial Court proceeded to frame the charges against the petitioner under Section 174-A IPC, vide order dated 13.08.2015.

These proceedings were challenged by way of the Revision Petition as well before the learned Additional Sessions Judge, Sonapat and the petition preferred by the petitioner was dismissed on 03.10.2015.

Challenging these orders and the proceedings on the ground that the accused Tofiq had subsequently appeared and the trial against him was finally decided on 22.10.2014, which ended in acquittal. However, the said accused was convicted for the offence punishable under Section 174-A IPC and was inflicted a sentence of fine only, amounting to Rs.2,000/-.

Counsel for the petitioner heard at length.

This culmination of trial in the FIR and conviction of accused Tofiq under Section 174-A IPC is not sufficient to drop the proceeding against surety (petitioner). Once a person who stands surety for an accused undertakes to make him appear, in case the accused fails to attend the hearing/proceeding of the trial without the permission of the Court. The responsibility shouldered by the surety casts an obligation upon him to discharge his duty to make the accused appear before the Court. Instead of discharging the duty, the surety himself failed to appear despite service of summons and the proceedings of the trial were delayed considerably.

It needs to be noted that the trial Court is always at an advantageous position to examine and evaluate the conduct of a witness, accused, complainant or other officials etc., in the proceedings of the case.

Noticing the obtrude conduct of the petitioner the trial Court was compelled to prosecute the accused persons for the offence punishable under Section 174-A IPC. The nature of the proceedings and the material is already on record of the trial Court. The trial court was justified in proceeding against the petitioner. The Revisional Court has further examined the same material and did not find any illegality or impropriety much less any error of law in the proceedings initiated by the trial Court and resultantly refused to interfere in its order dated 3.10.2015.

In these circumstances, no case for invoking the inherent powers under Section 482 Cr.PC is made out.

Dismissed.

**(JASWANT SINGH)
JUDGE**

November 19, 2015
Vinay