

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-28601 of 2016

Date of Decision: 30.09.2016

Nikhil Garg

...Petitioner(s)

Versus

MS Super Jewelers Pvt. Ltd.

...Respondent(s)

**CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA**

Present:- Mr. Jashandeep Singh Sandhu, Advocate  
for the petitioner.

Mr. Kashish Garg, Advocate  
for the respondent.

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**HARI PAL VERMA, J. (Oral)**

Prayer in this petition filed under Section 482 CrPC is for quashing of order dated 2.7.2016, whereby the petitioner has been declared as proclaimed offender by Chief Judicial Magistrate, Bathinda in a private complaint No.4891 of 2015 filed under Section 138 of the Negotiable Instruments Act, 1881 (for short, "the Act").

As per the averments made in the petition, the allegation against the petitioner is that he has issued a cheque amount to Rs.1,30,000/- from his bank account in State Bank of India, Bathinda in favour of the respondent-complainant company on account of purchasing of gold. However, when the said cheque was presented for encashment, the same was returned back with the memo of 'Funds Insufficient'. Accordingly, the respondent-complainant filed a private complaint against the petitioner,

wherein summons were issued against the petitioner, but due to non-receipt of summons by the petitioner, warrants were issued against him. However, when even warrants were returned unserved, proclamation proceedings under Section 82/83 CrPC were initiated against him.

Learned counsel for the petitioner has argued that neither any notice was served upon the petitioner nor summons were served upon him. He states that he is not residing at the given address where the summons were sent for service. The petitioner has no knowledge regarding filing or pendency of the complaint in question.

On the other hand, learned counsel for the respondent-complaints submits that the complaint in question was filed on 2.7.2015 and the petitioner is avoiding service of summons on one pretext or the other.

I have heard learned counsel for the parties.

This Court vide order dated 19.8.2016 had directed the petitioner to place on record documents Ex.PX and Ex.PY, as shown in the order dated 2.7.2016, but the said documents have not been placed on record. The plea on behalf of the petitioner that the documents were shown in Court is of no consequence particularly when the adjournment was granted to place on record the same. The order dated 2.7.2016 shows that HC Hardeep Singh has suffered a statement to the effect that he had effected the proclamation and proved the same as Ex.PX and his report Ex.PY. but despite that, petitioner has not ever turned up.

Therefore, the explanation given by the petitioner that he was not served in the case, is not satisfactory, rather shows that the petitioner has intentionally avoided service of summons.

In this view of the matter, this Court does not find any merit in the present petition.

Dismissed.

September 30, 2016  
**AK**

**( HARI PAL VERMA )**  
**JUDGE**

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No