

\$~74

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(CRL) 1455/2016

GAURAV SAXENA

..... Petitioner

Through: None

versus

STATE GOVT OF NCT OF DELHI & ANR

..... Respondents

Through: Ms.Mallika Parmar, Advocate for
Ms.Richa Kapoor, A.S.C. for the
State

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

%

09.05.2016

CRL.M.A.7591/2016

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(CRL) 1455/2016

1. By way of this writ petition filed under Article 226 of the Constitution of India read with Section 482 of Cr.P.C., petitioner is seeking quashing of FIR No.575/2015 under Section 174A IPC registered at PS Naraina and subsequent proceedings arising therefrom.

2. When the matter is taken up at the first call, proxy counsel appearing on behalf of the petitioner requested for Passover which was granted.

3. Thereafter none has appeared on behalf of the petitioner despite awaiting for sufficient time.

4. Perusal of the record reveals that Complaint Case No.21/1/13 under Section 138 NI Act has been filed by the complainant company/respondent No.2 herein against the present petitioner. In the said complaint case, since the petitioner failed to appear in the Court and make the payment as per the settlement arrived at between the parties, NBWs were issued against him and proceedings under Section 82 CrPC have also been initiated. Thereafter

an application praying for cancellation of NBWs and recalling of process under Section 82 Cr.P.C. has been filed on behalf of the petitioner. However, the learned MM considering that the petitioner did not appear even after execution of process under Section 82 CrPC and committed an offence punishable under Section 174-A IPC, which is a cognizable offence, directed for registration of FIR against the petitioner for the offence punishable under Section 174-A IPC.

5. Section 174-A of Indian Penal Code provides:

‘174-A. Non-appearance in response to a proclamation under Section 82 of Act 2 of 1974 – Whoever fails to appear at the specified place and specified time as required by a proclamation published under sub-section (1) of Section 82 of the Code of Criminal Procedure, 1973 shall be punished with imprisonment for a term which may extend to three years or with fine or with both, and where a declaration has been made under sub-section (4) of that section pronouncing him as a proclaimed offender, he shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.’

6. Since none has appeared on behalf of the petitioner despite awaiting for sufficient time, the writ petition is dismissed for non-prosecution.

CRL.M.A.7592/2016

Dismissed as infructuous.

PRATIBHA RANI, J.

MAY 09, 2016/‘pg’