

**116 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-15537-2017(O&M)

Date of decision: 27.07.2017

Raj Kumar Parmar

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr.Deepak Goyal, Advocate
for the petitioner.

ARVIND SINGH SANGWAN, J. (ORAL)

The petitioner has challenged the order dated 05.12.2016 (Annexure P-6) passed by the learned Judicial Magistrate 1st Class Ludhiana in complaint No.1387/2016 dated 15.02.2016 under Section 138 of the Negotiable Instruments Act titled as M/s Monika Alloys and Steel Industries and another vs. M/s J.B. Engineering Corporation and another (Annexure P-4) whereby the petitioner has been declared proclaimed offender.

Learned counsel for the petitioner submits that the petitioner is a resident of Matigara, Siliguri, West Bengal and to substantiate this claim, he has placed on record the documents as driving licence and Renewal documents of Arms License being address proof and both have been issued from District Darjeeling, Siliguri.

Counsel further submits that the publication made against him in the local Newspaper of Ludhiana, namely, Ashiana is not in circulation in the West Bengal and the petitioner could not come to know about the pendency of the complaint filed in Ludhiana.

Learned counsel further submits that in fact the complaint has been filed by respondent Nos.2 and 3 relating to two other cheques and the petitioner was declared proclaimed offender in both the cases. The learned counsel for the petitioner has referred the order dated 04.05.2017 passed in

CRM-M-15494 of 2017, wherein considering the submissions of the petitioner relating to his residence, a similar order passed by the trial Court declaring him proclaimed offender was challenged and the petition was allowed to the extent that the petitioner was granted liberty to surrender before the trial Court within a period of 15 days and a direction was issued to the trial Court to release the petitioner on his furnishing bail bonds/ surety bonds.

Learned counsel for the petitioner further submits that the said petition was disposed of without issuing notice to respondent-complainant considering the fact that after the petitioner was declared proclaimed offender, the file was consigned to the record room and the proceedings before the trial Court remained *sine die* and therefore, no notice was required to be issued for the respondents to dispose of the petition.

Counsel for the petitioner further submits that in pursuance to the order dated 05.05.2017, petitioner could not appear before the trial Court and if he is a proclaimed offender in this case and in that eventuality he would be sent to judicial custody. He further submits that he will move an application for extension of time in that petition.

After hearing learned counsel for the petitioner, the present petition is partly allowed. Petitioner is granted liberty to surrender before the trial Court within a fortnight and on furnishing bail/surety bond, the trial Court will release him on bail and till then the process issued against him shall remain stayed. It is further clarified in the event of failure to comply with this order, the process of declaring him proclaimed offender shall automatically be revived.

(ARVIND SINGH SANGWAN)
JUDGE

27.07.2017

Hemlata

Whether speaking/reasoned
Whether reportable

Yes / No
Yes / No