

CRM-M-7951-2016

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

CRM-M-7951-2016

Date of Decision: 03.07.2017

Vineet Sachdeva

... Petitioner

Versus

Ankur Sharma

... Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Gupreet Singh, Advocate,
for the petitioner.

None for the respondent.

INDERJIT SINGH, J.

Petitioner-Vineet Sachdeva has filed this petition under Section 482 Cr.P.C. for quashing of order dated 30.11.2015 (Anexure P-5) passed by learned Judicial Magistrate Ist Class, Hoshiarpur vide which the petitioner was declared proclaimed offender in complaint No.360 dated 21.05.2013, under Section 138 of the N.I. Act.

Notice of motion was issued in this case. Earlier the respondent appeared through his counsel, however, learned counsel for the respondent absented later on during the proceedings.

I have heard learned counsel for the petitioner and have gone through the record.

Perusal of the record shows that the petitioner was never served personally in the complaint case. His bailable warrants and non-bailable warrants were received back unexecuted. There is nothing in the proceedings to show that the petitioner has intentionally avoided the process of court.

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Learned counsel for the petitioner argued that the petitioner was not residing at the address given in the complaint and his wrong address was given in the complaint.

There is nothing on record to show as to how the trial Court reached to the satisfaction that the petitioner has intentionally avoided the process of law or absconded etc. Furthermore, as per the record, the proclamation was ordered to be issued on 08.09.2015 for 04.11.2015. As per the record, proclamation was issued on 18.10.2015 which means till the next date i.e. 04.11.2015, a clear period of 30 days had not expired. Thereafter, no fresh proclamation was issued. Adjournment of the case by the trial Court for completing 30 days is not the compliance of provisions. As per Section 82 Cr.P.C., the accused is to be given 30 days clear time to appear on the specified date and place. No specific date and place has been mentioned in any proclamation directing the petitioner to appear on 30.11.2015, when he was declared proclaimed offender.

Therefore, keeping in view the above facts, I find merit in the present petition and the same is allowed. The impugned order dated 30.11.2015 declaring the petitioner as proclaimed offender, is set aside. Since the petitioner has already appeared before the trial Court and has been released on interim bail, the order dated 04.03.2016 passed by this Court is made absolute.

03.07.2017

parveen kumar

(INDERJIT SINGH)
JUDGE

Note: Whether speaking/reasoned : Yes
Whether reportable : No