

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

**CRM-M No.14419 of 2018 (O&M)
Date of Decision: 29.11.2018**

Mati Ram

.....Petitioner

Versus

State of U.T., Chandigarh and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Jai Bhagwan, Advocate for the petitioner.

Mr. Sumit Jain, Advocate for respondent No.1-UT, Chandigarh.

Mr. Vipul Dharmani, Advocate for respondent No.2.

MAHABIR SINGH SINDHU, J. (ORAL)

Present petition under Section 482 Cr.P.C. has been filed praying for quashing of order dated 24.01.2018 (**Annexure P-1**), passed by learned Judicial Magistrate 1st Class, Chandigarh, vide which, the petitioner was declared as a proclaimed person in Complaint No.34 dated 02.03.2015 and 01.04.2015, titled as '**HDB Financial Services Ltd. Versus Mati Ram**', under Section 138 of the Negotiable Instruments Act.

This Court, while issuing notice of motion, passed the following order:-

“ Learned counsel for the petitioner inter alia submits that proclamation was issued against the petitioner vide order dated 30.11.2017 for appearance on 10.01.2018. On 10.01.2018, it is recorded that period of 30 days has not yet expired and the case was adjourned to 24.01.2018 awaiting the appearance of the accused. On 24.01.2018, the petitioner was declared as proclaimed offender. The procedure adopted by the learned trial Court is not sustainable in law as the date fixed for appearance before learned trial Court should be 30 days after the publication of the proclamation. In the instant case, the matter was fixed before expiry of 30 days and mere adjournment for 24.01.2018 is not sufficient compliance with the provisions of law. Reference is also made to report dated 10.12.2017 (Annexure P2) to submit that in fact, the proclamation

proceedings were not carried out at all and the papers were prepared while sitting in the office. The serving Constable could not make a statement on 10.12.2017 that the proclamation had been pasted on 23.12.2017.

Notice of motion for 20.07.2018.

Meanwhile, operation of order dated 24.01.2018 (Annexure P-5) is stayed. The petitioner is directed to appear before the learned trial Court within 15 days from today and seek regular bail.”

It has been pointed out by learned Counsel for the petitioner that in terms of order dated 06.04.2018, the petitioner has joined the proceedings and after his surrender, secured the regular bail from learned trial Court.

The above fact is duly acknowledged by learned Counsel for respondent No.2.

Since the petitioner has already joined the proceedings before learned trial Court and as agreed between the parties, no FIR under Section 174-A of the IPC has been registered against the petitioner after passing the impugned order. Even the impugned order was passed without awaiting for the period of 30 days from the date of proclamation.

In view of above, the impugned order dated 24.01.2018 is quashed and set aside.

It is made clear that petitioner shall appear before learned trial Court regularly.

Disposed off accordingly.

November 29, 2018

Gagan

**(MAHABIR SINGH SINDHU)
JUDGE**

Whether speaking/reasoned	Yes
Whether Reportable	No