

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

(1) Criminal Misc. No.M-23343 of 2018 (O&M)
(2) Criminal Misc. No.M-23376 of 2018 (O&M)
(3) Criminal Misc. No.M-24182 of 2018 (O&M)
Date of Decision: July 30, 2018

Sandeep Sobti

.....PETITIONER(s).

VERSUS

M/s Ranjit Associates

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Vinod K. Kataria, Advocate
for the petitioner (s).

Mr. Amit Arora, Advocate
for the respondent.

SURINDER GUPTA, J.

Petitioner has sought transfer of 3 complaints filed by respondent for offence punishable under Section 138 of Negotiable Instruments Act, 1881 pending before Judicial Magistrate, Faridabad to Ambala, Panchkula or Chandigarh.

Learned counsel for the petitioner has argued that in these cases, the petitioner was declared proclaimed person vide order dated 14.08.2017. He appeared before the trial Court on 06.09.2017 and was allowed regular bail. Thereafter, the case was fixed for cross-examination of complainant. Learned trial Court has again directed to register cases against the petitioner and that order was challenged by the petitioner in

CRR-4148 of 2017, wherein the proceedings before the trial Court were

stayed vide order dated 10.11.2017. Despite the stay of proceedings, the trial Court fixed the case for recording cross-examination and now three FIRs have also been lodged against the petitioner. The grouse of the petitioner is that he has been wrongly declared proclaimed person. The respondent is influential person and the petitioner has apprehension that his case will not be decided impartially. It has also been alleged that petitioner is suffering from stone in kidney and is under treatment.

Learned counsel for the petitioner has argued that vide order dated 10.11.2017, proceedings before the trial Court were stayed but the trial Court still proceeded with the trial. This has given apprehension to the petitioner that Court is working under the influence of complainant.

Petitioner is resident of Jalandhar and because of his apprehension of not getting justice, he has sought transfer of the cases from Faridabad to Ambala, Panchkula or Chandigarh.

Petitioner is aggrieved by order of trial Court dated 17.10.2017, which reads as follows:-

“Complainant is present for cross-examination but learned counsel for the accused is not prepared for the cross-examination of the complainant. On the request of learned counsel for the accused, case is adjourned to 15.11.2017 for cross-examination of complainant subject to the cost of Rs.500/- to be paid to the opposite party.

Learned counsel for the complainant brought to the notice of this Court that accused in this case was declared proclaimed person and even notice was issued to the SHO, P.S. Suraj Kund for registration of FIR under Section 174A of IPC but the copy of FIR is

not filed by the SHO concerned. Hence, fresh notice be issued to SHO with the direction to register a case against proclaimed person under Section 174-A I.P.C.”

On perusal of the paper-book, I find that the petitioner was declared proclaimed person vide order dated 14.08.2017 and direction was issued to SHO, Police Station Surajkund to register FIRs against the proclaimed person. Order dated 17.10.2017 is only in continuation of order dated 14.08.2017 and fresh notice was issued vide this order to SHO, Police Station Suraj Kund for registration of FIR in compliance of order dated 14.08.2017, which reads as follows:-

“Today the case was fixed for presence of accused Sandeep Sobti. Mandatory period of 30 days from the date of issuance of proclamation against him has expired but accused has not appeared before this Court. Case called since morning. But none has appeared on behalf of accused. It is already 03.30 P.M. No further wait is justified. **Hence accused Sandeep Sobti is hereby declared as proclaimed person.**

Now, notice to SHO, P.S. Suraj Kund be also issued for 27-09-2017, **with the direction to register a case against proclaimed person Sandeep Sobti under Section 174-A IPC.”**

The petitioner has in fact wrongly presented the fact to this effect before this Court to impress that FIR was ordered to be registered against him vide order dated 17.10.2017 and following order was passed in CRR-4148-2017 on 10.11.2017:-

“Learned counsel inter alia contends that the petitioner was wrongly and illegally declared as proclaimed offender by giving the address of his

premises lying locked since long. On coming to know about this fact, the petitioner has appeared before the trial Court and granted bail. The learned trial Court, vide impugned order dated 17.10.2017, wrongly and illegally directed the concerned SHO to lodge an FIR under Section 174-A IPC against the petitioner.

Notice of motion for 18.01.2018.

In the meanwhile, operation of impugned order dated 17.10.2017, shall remain stayed.”

On similar representation (misrepresentation), order dated 01.05.2018 was passed on CRR-4148-2017:-

“Notice of motion in CRR No.4148 of 2017 was issued on 10.11.2017 by passing the following order:-

“Learned counsel inter alia contends that the petitioner was wrongly and illegally declared as proclaimed offender by giving the address of his premises lying locked since long. On coming to know about this fact, the petitioner has appeared before the trial Court and granted bail. The learned trial Court, vide impugned order dated 17.10.2017, wrongly and illegally directed the concerned SHO to lodge an FIR under Section 174-A IPC against the petitioner.

Notice of motion for 18.01.2018.

In the meanwhile, operation of impugned order dated 17.10.2017, shall remain stayed.”

Operation of the order dated 17.10.2017 was stayed. Lodging of FIR under Section 174(A) IPC was

the resultant effect of the aforesaid order.

Learned counsel for the petitioner submits that the petitioner has to attend each and every date before the trial Court at Faridabad.

Adjourned to 30.07.2018.

Till the next date of hearing, further proceedings arising out of FIR lodged under Section 174(A) IPC shall remain stayed.

A photocopy of this order be placed on the file of connected cases.”

Perusal of the above order passed in CRR-4148-2017 shows that in fact the grouse of the petitioner was against registration of the FIRs against him, which have already been registered on 31.10.2017 and proceedings arising out of FIR were stayed and not in complaint filed by respondent. In that petition, he had not sought stay of proceedings in the criminal complaints filed against him. Even otherwise, revision petition CRR-4148-2017 has also been taken up today and dismissed vide separate order of even date. The mere fact that petitioner was declared proclaimed person, is no reason for transfer of criminal complaints from Court at Faridabad to Ambala, Panchkula or Chandigarh. If the petitioner is feeling aggrieved against the registration of the FIRs, he has remedy to challenge the order vide which he was declared proclaimed person and FIR was ordered to be registered against him. Learned trial Court has committed no error by proceeding in complaint filed by respondent under Section 138 N.I. Act as there was no order of stay of proceedings in complaints, as such, grievance of petitioner on this score is uncalled for. The medical reasons as put forth in the petitions that petitioner is having stone in kidney is again

any medical record.

Keeping in view the above facts, I find no reason for transfer of the complaints from the Court of Judicial Magistrate 1st Class, Faridabad to Ambala, Panchkula or Chandigarh. Consequently, all these three petitions have no merits and are dismissed.

July 30, 2018
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***