

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

CRM-M-29224-2013

Date of Decision:10.05.2018

Shish Pal Singh

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Ms. Nupur Choudhary, Advocate
for the petitioner.

Mr. R.K. Doon, A.A.G. Haryana.

P.B. BAJANTHRI J. (Oral)

Service of notice upon respondent No.2 is complete. However,
there is no representation on behalf of respondent No.2.

2. Petitioner has sought for quashing of FIR No.201 dated 19.04.2011 registered under Section 174-A IPC at Police Station Sector-7 Faridabad; charge-sheet and impugned order of framing of charge dated 11.02.2013 and order dated 25.01.2011 passed by the Judicial Magistrate Ist Class (Annexures P-3, P-4 and P-1 respectively).

3. Learned counsel for the petitioner submitted that petitioner was summoned for trial in criminal complaint titled as Chander Singh Sheoran v. Shish Pal Singh; bearing case No.RBT 6292 dated 22.02.2010 under Section 138 of the Negotiable Instruments Act for 22.04.2010. In that complaint, petitioner was not properly served and he was declared proclaimed offender vide order dated 25.1.2011. On the basis of order dated 25.1.2011 an FIR No.201 dated 19.04.2011 under Section 174-A IPC was registered against the petitioner in Police Station Sector-7 Faridabad. Parties have entered into a compromise on 1.9.2011 in the complaint dated

22.02.2010. It has been recorded and file was closed by the trial court. Therefore, order dated 25.1.2011 by which petitioner has been declared as proclaimed offender merged with the order dated 1.9.2011 and become infructuous. What remains in the present case is that the FIR registered on the basis of order dated 25.01.2011. Learned counsel for the petitioner pointed out from the zimini orders maintained by the trial court. Perusal of the order dated 22.04.2010 and 14.06.2010, it is evident that petitioner refused to accept the summon but on the next date court was different and he was no occasion to appear in that Court. Similarly from the order dated 2.11.2010, it is evident that service of notice upon the petitioner was incomplete and so also it is not specific as to which address; on what date; name of the son; mobile number. Nothing is recorded with the particulars. Consequently, trial court proceeded to pass order declaring the petitioner as proclaimed offender on 25.01.2011. Subsequently, FIR No.201 dated 19.04.2011 under Section 174-A was registered against the petitioner.

4. While resisting the claim of the petitioner, learned State counsel submitted that accused was declared proclaimed offender after due process. There is complete compliance of process. Such as the proclamation was affixed on the residence of the accused as well as on the notice board of the Court. Accused has opportunity to appear after the affixation of proclamation upto 30 days. Present case is related to the subsequent proceeding to the order dated 25.01.2011.

5. Heard the learned counsel for the parties.

6. Crux of the matter in the present petition is whether petitioner had the knowledge of the complaint resulted into declaring him proclaimed offender on 25.1.2011 or not?

7. Perusal of the record, it is evident that petitioner was not properly served. In the absence of necessary material to show that necessary steps have been taken to serve the petitioner, declaring the petitioner as proclaimed offender may not be correct. Even zimini orders from 22.2.2010 to 2.11.2010 do not reveal relating to address of the petitioner and service of notice.

8. In view of the above lacuna and taking into account the fact that there is further development on 01.09.2011 and order dated 25.1.2011 has gone into and merged with the final order i.e. FIR No.201 dated 19.4.2011 registered under Section 174-A IPC at Police Station Sector-7, Faridabad is the subsequent of earlier matter/complaint in which parties have entered into a compromise. Therefore, FIR No.201 dated 19.4.2011 based on order dated 25.1.2011 and consequential proceedings arising out of this FIR stands quashed.

6. Accordingly, petition is allowed.

10.05.2018
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**