

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

(1)	Criminal Misc. No.M-317 of 2018 (O&M)
(2)	Criminal Misc. No.M-322 of 2018 (O&M)
(3)	Criminal Misc. No.M-359 of 2018 (O&M)

Date of Decision: July 30, 2018

Sandeep Sobti

.....PETITIONER(s).

VERSUS

State of Haryana and another

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

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

Ms. Dimple Jain, A.A.G., Haryana.

Mr. Amit Arora, Advocate
for respondent No.2.

SURINDER GUPTA, J.

In three separate complaints under Section 138 of Negotiable Instruments Act, 1881 (for short-the Act), filed by respondent No.2, petitioner was declared proclaimed person vide order dated 14.08.2017 and directions were issued to the Station House Officer, Police Station, Surajkund to register FIR against the proclaimed person.

Learned counsel for the petitioner has argued that offence punishable under Section 138 of the Act for which petitioner was summoned, is bailable. Petitioner had later on appeared and was released on bail as such FIRs under Section 174-A IPC could not be registered against him at Police Station Surajkund and the same is liable to be quashed as the

petitioner is appearing and facing the trial in the main cases.

The petitioner was declared proclaimed person in three complaint cases and three separate FIRs for the offence punishable under Section 174-A IPC bearing No.960, 958 and 959, all dated 31.10.2017 were registered against him under the direction of trial Court.

Section 174-A IPC reads as follows:-

“174A. Non-appearance in response to a proclamation under section 82 of Act 2 of 1974.—Whoever fails to appear at the specified place and the specified time as required by a proclamation published under sub-section (1) of section 82 of the Code of Criminal Procedure, 1973 shall be punished with imprisonment for a term which may extend to three years or with fine or with both, and where a declaration has been made under sub-section (4) of that section pronouncing him as a proclaimed offender, he shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.”

Section 82 (1) Cr.P.C., reads as follows:-

“82. Proclamation for person absconding.

(1) If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.”

In view of the above provisions, learned Trial Court after declaring the petitioner a proclaimed offender has committed no error while

directing the registration of FIR against the petitioner under Section 174-A IPC. The order of the Trial Court dated 14.08.2017 has not been challenged by the petitioner, so far. The mere fact that he has later on sought bail and put in appearance before the Trial Court, is no reason to quash the FIRs registered against him as he had failed to appear before the Court within the specified period of 30 days as provided to him.

Here, learned counsel for the petitioner had argued that petitioner is in fact living in Green Park, Jalandhar and proclamation was effected in his factory, which is lying closed.

The above fact can be seen by the Trial Court during trial of the case and there is no reason to quash the impugned FIRs at this stage. Consequently, all these three petitions have not merits and are dismissed.

July 30, 2018
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No