

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

**CRM-M No. 33582 of 2018
Date of Decision: 06.08.2018**

Suresh Kumar

.....Petitioner

v.

State of Haryana and another

.....Respondents

CORAM HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Yashveer Kharb, Advocate, for the petitioner.

RAJBIR SEHRAWAT, J.

This is the petition seeking quashing of order dated 23.07.2018 (Annexure P-1) passed by the learned trial Court, whereby the petitioner has been declared as proclaimed person in case NACT-1693 of 2017.

Learned counsel for the petitioner submits that the impugned order has been wrongly passed against the petitioner because the petitioner was never served in this case. It is further contended that, in fact, the summons were repeatedly sent to another person of the same name having same father's name and resident of the same village. However, when the petitioner went to the grain market then he came to know that he was declared as proclaimed person. It is contended that the petitioner did not have any intention to absent himself from the Court of law or to flee from course of justice.

Learned counsel has further submitted that the petitioner had even made the entire payment by way of cheque to respondent No.2 and consequently, the criminal complaint itself had been withdrawn by the complainant. Resultantly, the main complaint itself was dismissed as withdrawn vide order dated 25.07.2018. So no criminal proceedings were pending in the main complaint.

Notice of motion.

On asking of the Court, Mr. Karan Sharma, AAG, Haryana, accepts notice on behalf of the State.

A perusal of the file shows that even the main complaint itself has been dismissed as withdrawn, hence, it would be a futile exercise to compel the petitioner now to appear before the Court, although, the petitioner never showed his intention not to appear before the trial Court. The explanation furnished by the petitioner also appears to be justified and sufficient.

As presence of accused before Court of law is sine qua non for a fair trial, so the absence from the process of the Court is not to be, normally, countenanced by the Court. But the object of the coercive mechanism prescribed under Cr.P.C. is only to ensure that the accused persons remain present before the Court to face the trial and to receive the orders and punishments.

However, in this case, the petitioner has shown that he had no intention not to appear before the Court. He has also shown reasonable cause for not appearing before the Court at the relevant time. Further, even the proceedings of main case stand terminated on account of payment having been made by the petitioner.

In view of the above, the impugned order dated 23.07.2018 is set aside.

Petition stands allowed.

(RAJBIR SEHRAWAT)
JUDGE

06.08.2018

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Speaking/Reasoned

Yes/No

Reportable

Yes/No