

112-A

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

CRM-M-37020 of 2017.
Decided on:- December 10, 2018.

Ram Das.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Parminder Singh, Advocate
for the petitioner.

Mr. Ripu Daman, A.A.G., Haryana.

HARI PAL VERMA, J. (Oral)

The petitioner has filed present petition under Section 482 Cr.P.C. for quashing of FIR No.498 dated 05.11.2015 under Section 174-A IPC (Annexure P-1) registered at Police Station Sadar Panipat along with all subsequent proceedings arising therefrom.

Learned counsel for the petitioner has contended that on 28.10.2014 complainant Sunil Kumar had filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 (for short, the Act) against the petitioner-accused. In the said complaint, the petitioner was never served and ultimately, he was declared as a proclaimed person on 30.09.2015 by learned Judicial Magistrate 1st Class, Panipat, which resulted in registration of the FIR (Annexure P-1).

He has further contended that the personal service in the complaint under Section 138 of the Act was not effected upon the petitioner. Further, no legal notice was served upon the petitioner. However, still he has surrendered before the trial Court and has been admitted on bail. He refers to the order dated 04.05.2017 passed by this Court in **CRM-M-15567 of 2017** titled as **Virender Mohan Kaushal Versus State of Haryana**.

He has further contended that the petitioner was seriously ill and was undergoing treatment at Parkash Hospital, Panipat at the stage when proclamation proceedings were initiated against the petitioner. In support of his contention, he has referred to the medical certificate issued by the said hospital on 17.01.2015 (Annexure P-4) (wrongly typed as Annexure P-2). He further undertakes that the petitioner shall continue to appear before the trial Court in the complaint under Section 138 of the Act and shall not delay the proceedings in any manner.

Having heard learned counsel for the parties, this Court finds that since the petitioner was never served personally in the case, the process of declaring him as a proclaimed person is not sustainable.

Accordingly, the order dated 30.09.2015 passed by learned trial Court, whereby the petitioner was declared as a proclaimed person is set aside and the FIR No.498 dated 05.11.2015 under Section 174-A IPC (Annexure P-1) registered at Police Station Sadar Panipat as well as all subsequent proceedings arising therefrom are quashed qua the petitioner.

The petition is, accordingly, allowed in these terms.

However, it is made clear that the petitioner shall continue to face trial in the complaint under Section 138 of the Act and shall not remain absent during the trial unless an exemption is granted.

December 10, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No