

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

**CRM No.M-25706 of 2015 (O&M)**

**Date of Decision: May 09, 2019**

Adishwar Jain

...Petitioner

VERSUS

State of Haryana and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH**

Present: Mr.Sandeep Wadhawan, Advocate  
for the petitioner.

Mr.Sharad Kumar Yadav, DAG, Haryana  
for the respondent-State.

Ms.Kiran Bala Jain, Advocate  
for respondent No.2.

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**INDERJIT SINGH, J.**

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing of FIR No.224 dated 23.05.2015 under Section 174-A IPC, registered at Police Station Udyog Vihar, Gurgaon and all other consequential proceedings arising therefrom.

Notice of motion was issued. Learned State counsel as well as learned counsel for respondent No.2 appeared.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

The perusal of the record shows in the present case, a complaint

others under Section 138 of the Negotiable Instruments Act. Accused was summoned through non-bailable warrants for 25.03.2014 as per order dated 21.12.2014 passed by learned JMIC, Gurgaon, copy of which is Annexure P-9. Annexure P-10 is the order dated 25.02.2014 passed by learned JMIC, Gurgaon, which is reproduced as under:-

*“File taken up today on an application moved on behalf of the accused for putting up the file for the purpose of placing on records the orders of Hon'ble High Court. Learned counsel Sh.Pradeep Sharma for accused has appeared and has stated that order date 22.01.2014 passed in CRM No.M-1108 of 2014 by the Hon'ble High Court be kept on the file. In these circumstances as per the said orders since the petitioners are allowed to appear before the trial court through their counsel. Hence non-bailable warrants be recalled back.”*

Annexure P-11 is the order dated 25.03.2014, where the Court, on the basis of issuance of non-bailable warrants, which have already been recalled back vide order dated 25.02.2014, issued proclamation inadvertently without noticing order dated 25.02.2014. Therefore, on the basis of recalling of non-bailable warrants, proclamation could not have been issued. This fact is further clear from the order dated 25.05.2015 passed by learned JMIC, Gurgaon, where it is held that accused was never required to appear before the Court in-person as per order passed by this Court dated 22.01.2014, where personal exemption was allowed.

Learned counsel for the petitioner contended that proclamation has been wrongly and inadvertently issued by the trial Court when the warrants were also recalled back and petitioner was not to appear personally before the Magistrate and therefore, he argued that present FIR is liable to be quashed. The facts, argued by learned counsel for the petitioners, have

respondent No.2.

Keeping in view above facts, I find that proclamation has been issued inadvertently by learned JMIC, Gurgaon, without noticing order dated 25.02.2014 where the non-bailable warrants were already recalled back. Hence, the registration of the FIR in the present case is nothing but abuse of process of law and amounts to miscarriage of justice.

Therefore, finding merit in the present petition, the same is allowed. FIR No.224 dated 23.05.2015 under Section 174-A IPC, registered at Police Station Udyog Vihar, Gurgaon along with all subsequent proceedings arising therefrom, are hereby quashed.

**May 09, 2019**  
Vgulati

**(INDERJIT SINGH)**  
**JUDGE**

Whether speaking/reasoned  
Whether reportable

**Yes**  
**No**