

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

CRM-M-38476-2017

Date of Decision:21.11.2019

Pankti H. Mehta

....Petitioner

Versus

State of Haryana and another

...Respondents

CORAM:HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Ms. Suneita Ohja, Advocate
for the petitioner.

Mr. Arun Kumar, AAG, Haryana.

Mr. Himmat S. Deol, Advocate
for respondent No.2.

MAHABIR SINGH SINDHU, J.(Oral)

Present petition has been filed under Section 482 Cr.P.C.
for quashing of order dated 26.09.2016 passed by learned Judicial
Magistrate First Class, Gurgaon whereby the petitioner has been
declared as proclaimed person in case FIR No. 70 of 2012, under
Sections 406, 420 and 120-B of the Indian Penal Code, registered at
Police Station Udyog Vihar, Gurgaon.

Learned counsel for the petitioner contends that the
impugned order has been passed on account of the fact that petitioner
was not aware about the pendency of the proceedings before learned
trial Court and that was the precise reason that she could not appear
on the date of hearing. Further argued that after investigation of the
matter, petitioner was found innocent and a cancellation report has
already been submitted qua petitioner before the Court of competent

jurisdiction.

On the other hand, learned counsel for respondent No.2 has opposed the prayer and submits that the impugned order has rightly been passed by learned trial Court as the petitioner was not co-operating in the matter; rather avoiding the process.

Heard learned counsel for the parties and perused the paper-book.

Concededly, the petitioner had joined the proceedings before learned trial Court in terms of the order dated 06.02.2018 passed by this Court and produced the copy of the order dated 12.02.2018, which is taken on record as Mark "X". It transpires that petitioner is an accused in another case also and she was regularly appearing before the Court concerned. A reference is made to the settlement between the parties and apart from the present case there were various complaints pending between the parties under Section 138 of the Negotiable Instruments Act, 1881 and all have already been quashed and the same is not disputed by learned counsel for respondent No.2. Since appearance of the petitioner before learned trial Court in other criminal case is not disputed by way of any affidavit or otherwise, therefore, it cannot be said that she was avoiding the proceedings in this case, deliberately; rather that was on account of ignorance.

Even otherwise, during investigation, petitioner was found innocent and the cancellation report has already been submitted qua her.

In view of the above, this Court is of the opinion that impugned order declaring the petitioner as proclaimed person is not tenable and the same is liable to be set aside.

Consequently, the present petition is allowed and the impugned order dated 26.09.2016 is set aside. Order dated 06.02.2018 passed by this Court is made absolute.

The observations made above may not be construed as an expression of opinion on the merits of the case pending before learned trial Court.

[MAHABIR SINGH SINDHU]
JUDGE

November 21, 2019

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Whether speaking/reasoned
Whether reportable?

yes/no
yes/no