

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

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**CRM-M-20778-2019(O & M)
Date of Decision:07.05.2019**

JAGDEEP SINGH

...PETITIONER

VERSUS

STATE OF PUNJAB AND ANR

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. L.S. Mann, Advocate
for the petitioner.

MANOJ BAJAJ, J.(ORAL)

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing the order dated 05.02.2019 (Annexure P-6) in a complaint bearing No.NACT/366/2016 dated 02.09.2016 under Section 138 of the Negotiable Instruments Act, 1881 (amended upto date) and Section 420 IPC titled as “Inderpal Singh vs. Jagdeep Singh” whereby the trial Court has proceeded to declare the petitioner as proclaimed offender.

Learned counsel for the petitioner contends that after passing of the summoning order on 23.01.2017, the petitioner appeared before the trial Court on 02.05.2017 and was admitted on bail. Thereafter, he kept on appearing in the said complaint case regularly till 10.09.2018. It is contended that on 10.09.2018, the petitioner could not appear and the Court proceeded to cancel the bail orders and forfeited the bail bonds. It is further

argued that later on the Court had proceeded to issue the proclamation against the petitioner on 19.11.2018. As per the statement of the concerned official, proclamation Ex.PX was effected on 05.01.2019, wherein the date of appearance was given as 15.01.2019. According to him, the statutory period of 30 days had not lapsed and, therefore, the order declaring him proclaimed person on 05.02.2019 is not sustainable.

Considering the nature of the case, this Court is of the opinion that issuance of notice to the complainant would be a formality, therefore, the complainant is not being called to respond to this petition as it may cause extra burden upon him.

After hearing the learned counsel for the petitioner, this Court finds that the petitioner absented only on 10.09.2018 and at that stage the talks regarding the compromise were going on and, therefore, the presence on the said date would have been only formal.

A perusal of the subsequent orders passed by the Court reveals that the proclamation was issued on 05.01.2019 intimating him the date of appearance as 15.01.2019, however, the formal order declaring proclaimed offender was passed on 05.02.2019. Apparently, the period of 30 days was not allowed to the accused to cause appearance in the said notice of proclamation and, therefore, the proceedings declaring him proclaimed offender stands vitiated.

At this stage, learned counsel for the petitioner contends that he is ready and willing to join the proceedings, as the talks regarding compromise have failed.

In view of the above, order dated 05.02.2019 is set aside and the petitioner is allowed to join the proceedings on his furnishing fresh bail bonds and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

The petition is allowed.

07.05.2019

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(MANOJ BAJAJ)
JUDGE

Whether Speaking/Reasoned: Yes/No

Whether Reportable : Yes/No