

S.No.131

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

CRM-M-32292 of 2019 (O&M)

Date of Decision:09.09.2019

Shiva SharmaPetitioner

Vs.

Narinder Kumar Badal....Respondent

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Sham Lal Bhalla, Advocate
for the petitioner.

Rajbir Sehrawat, J.(Oral)

The present petition has been filed by the petitioner under Section 482 Cr.P.C for quashing of complaint No.04 dated 09.01.2015 as well as order dated 06.06.2019 passed by learned JMIC, Khanna in case titled “Narinder Kumar Vs. Shiva Sharma” vide which the petitioner was declared as proclaimed person in the proceedings under Section 138 of NI Act and all consequential proceedings arising therefrom.

It is contended by counsel for the petitioner that in this very case, the petitioner was already released on bail. The petitioner was appearing before the trial Court regularly to face further proceedings. However, in November, 2018, the complainant entered into the compromise with the petitioner. Accordingly, the petitioner had paid an amount of Rs.1,05,000/- out of the total cheque amount of Rs.1,30,000/-. On this payment, the complainant had assured the petitioner to withdraw the complaint on the next date of hearing. Therefore, under the wrong impression, though mistaken, that the complainant would withdraw the complaint, the petitioner could not appear on 2-3 dates. Ultimately, the petitioner was declared as proclaimed person vide order dated 06.06.2019.

It is further submitted that, however, the petitioner does not have any intention to flee from course of justice. He intends to appear before the trial Court to face further proceedings in accordance with law. The only prayer is that he be protected against his arrest.

In view of the nature of the order which this Court intends to pass, the Court does not find it necessary to issue any notice to the opposite side. Hence, the present petition is being disposed of without issuance of the notice to the respondent.

The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remains present before the Court to receive the orders and punishments as are passed qua the accused. If the accused shows his sincere intention and desire to appear before the Court, then it would not be unjustified to protect him from being arrested.

In view of the above, the present petition is allowed and the impugned order is set aside, subject to the petitioner appearing before the trial Court on or before 20.09.2019. It is further directed that in case the petitioner so appears before the trial Court on or before 20.09.2019 then he shall be released on bail on his furnishing bail bonds/ sureties to the satisfaction of the trial Court/ Duty Magistrate.

September 09, 2019
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(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No