

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-41607-2019

Date of Decision: 03.10.2019

Brij Mohan Tokas

..... Petitioner

versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Manish Soni, Advocate, for the petitioner.

AMOL RATTAN SINGH, J. (ORAL)

By this petition, the petitioner seeks the setting aside of the impugned order dated 31.05.2019 (Annexure P-4), passed by the learned Judicial Magistrate Ist Class, Gurugram, thereby dismissing the application of the petitioner seeking exemption of his presence before that court, further ordering the issuance of non-bailable warrants to secure his presence. He also seeks stay on operation of the impugned order.

Yet further, he also seeks that this court should set aside the order passed thereafter on 19.07.2019 by the trial court (copy Annexure P5), whereby a proclamation in terms of Section 82 of the Cr.P.C. has also been issued against the petitioner, to try and secure his presence before the trial court.

On 26.09.2019, the following order had been passed by this court:-

“Learned counsel for the petitioner would place on record the order passed by any Court to the effect that the matter had been settled between the parties for an amount Rs. 17 lacs.

Adjourned to 03.10.2019.”

Today, learned counsel appears and submits that he could not point out on the last date of hearing that in fact the factum of the compromise reached between the parties had been duly noticed by the learned trial Court itself, vide its order dated 14.12.2018 (copy Annexure P-3).

The said order of the trial Court reads as follows:-

“At this stage accused vide separately recorded statement submitted that he has compromised in the present matter for Rs. 17 (seventeen) lacs and he would pay the settled amount till 20.04.2019, so he does not want to contest in present matter as he admits his liability. Complainant agreed to the proposal of offer given by the accused. Statement of both the parties recorded and they are duly identified by their respective counsels. Joint adjournment sought. Heard and allowed. Now the matter is adjourned to 20.02.2019 for compliance, if any and for further proceedings.”

Thereafter, the impugned order has been passed on 31.05.2019, declining the application of the petitioner seeking exemption from personal appearance, with it stated in the order that a perusal of the file shows that he was in the habit of moving exemption applications on one pretext or the other and consequently, his bail bonds were ordered to be cancelled and forfeited to the State, with warrants of arrest ordered to be issued, returnable on 19.07.2019, i.e. more than two and half months ago.

On that date, the order, Annexure P-5, was passed by the trial court, holding that the petitioner was deliberately avoiding service of the warrants upon him and consequently, a proclamation was ordered to be issued under Section 82 of the Cr.P.C.

It is thus seen that the petitioner had actually entered into a

compromise with the complainant (as per the trial courts' order dated 14.12.2018), on 14.12.2018, with an amount of Rs. 17,00,000/- to be paid. Yet, learned counsel for the petitioner even today, on query, does not deny that it has not been paid, though he again submits that the petitioner is willing to pay it. That contention, obviously, is only a delaying tactic.

Consequently, there is no reason for this Court to entertain this petition.

Dismissed.

October 03, 2019
nitin/dinesh

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No.