

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

Criminal Misc.-M No.7902 of 2020

Date of Decision: February 24, 2020

Rajesh Kumar Gupta

...Petitioner

Versus

State of Punjab

...Respondent

**CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present: Mr. Damanjit Singh Sandhu, Advocate,  
for the petitioner.

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**MANOJ BAJAJ, J. (Oral)**

Petitioner-Rajesh Kumar Gupta has filed this petition under Section 482 Cr.P.C. for quashing the order dated 10.12.2019 (Annexure P-1) passed by Judicial Magistrate Ist Class, Ludhiana, declaring him a proclaimed offender in Complaint No.854 of 2016, under Section 138 Negotiable Instruments Act, 1881.

Learned counsel contends that the petitioner after being summoned in the aforesaid complaint as an accused was granted bail, who kept on appearing regularly before the trial Court. He submits that a compromise was arrived at between the parties and the petitioner agreed to return the cheque amount to the complainant, but after that, he fell ill and could not appear before the trial Court and failed to honour the settlement. According to him, the trial Court, without following the proper procedure as envisaged under Section 82 Cr.P.C., declared him as a proclaimed offender as no publication was done. He submits that the absence of the petitioner is neither intentional nor willful, who is ready to return the cheque amount.

Learned counsel has further apprised the Court that the case before the trial

Court is fixed for 28.02.2020.

Notice of motion.

On the asking of the Court, Ms. Prabhjot Singh Walia, learned Assistant Advocate General, Punjab accepts notice on behalf State. A complete copy of the paper book has been handed over to the learned State counsel, in the Court.

At this stage, this Court is of the opinion that the presence of the complainant in the present case would be formal and, therefore, may not be necessary, particularly in view of the nature of the order, which is being passed. However, it shall be open for the complainant to approach this Court for recalling of this order in case the petitioner has misled this Court.

After hearing the learned counsel for the petitioner and considering the statement of the learned counsel for the petitioner, it is ordered that the petitioner shall appear before the trial Court on or before 28.02.2020 along with the demand draft of the entire cheque amount, in favour of the complainant, and upon his appearance, the trial Court shall admit him on regular bail subject to his furnishing the requisite bail bonds/surety bonds. It is made clear that in the event of non-compliance of this order, the order dated 10.12.2019 shall remain operative.

Petition stands allowed.

**February 24, 2020**  
**ramesh**

**( MANOJ BAJAJ )**  
**JUDGE**

**Whether speaking/reasoned**  
**Whether Reportable:**

**Yes/No**  
**Yes/No**