

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

226

CRM-M-5372 of 2020  
Date of decision :-22.04.2021

Laxman

...Petitioner

Versus

Birender Singh

...Respondent

**CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present: Ms. Arveen Sekhon, Advocate for  
Mr. D.S. Gandhi, Advocate for the petitioner.

None for the respondent.

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**SUVIR SEHGAL, J.**

The hearing of the matter has been conducted through video conferencing on account of outbreak of Covid-19 Pandemic.

Instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973, for quashing of order dated 23.03.2018, Annexure P-2, passed by the CJM, Rewari, in complaint No.COMA-1434-2015 dated 12.05.2015, Annexure P-1, filed under Section 138 of the Negotiable Instruments Act, 1881, (for short "NI Act") vide which the Court has declared the petitioner as Proclaimed Person, and all further proceedings arising out of the said order.

Facts, in brief, are that a complaint, Annexure P-1, has been filed against the petitioner on the allegation that a cheque of Rs.4 lac given by him to the complainant/respondent has been dishonoured on account of insufficient funds. The accused-petitioner appeared before the trial Court, and was granted bail, however, vide impugned order, Annexure P-2, he was declared as a Proclaimed Person.

Counsel for the petitioner has submitted that the proceedings under Section 138 of NI Act are bailable and the petitioner was granted bail. He urges that because of his employment, the petitioner shifted to Gurugram and was living there because of which he was not served before being declared as a Proclaimed Person. He submits that in compliance of the interim order dated 14.10.2020 passed by this Court, the petitioner has surrendered before the trial court, deposited the costs of Rs.10,000/- and has been released on interim bail by the trial court vide order dated 24.11.2020, a copy of which has been filed and is taken on record as Mark ‘A’. He submits that in view of the above development, the impugned order deserves to be set aside.

Notice of the petition has been served on the respondent, but he has remained unrepresented.

I have considered the submissions made by counsel for the petitioner.

Section 82 has been incorporated in the Code for a specific reason and that is to secure the presence of the accused. Once the purpose is achieved, the accused can no longer be described as an absconder. Since the petitioner has already appeared before the trial court and has joined the proceedings, the impugned order declaring him as a Proclaimed Person can no longer be sustained.

Accordingly, the petition is allowed, the impugned order dated 23.03.2018, Annexure P-2, passed by the CJM, Rewari, and all consequent proceedings arising therefrom are set aside.

22.04.2021  
*sheetal*

**(SUVIR SEHGAL)**  
**JUDGE**

|                           |        |
|---------------------------|--------|
| Whether Speaking/Reasoned | Yes/No |
| Whether Reportable        | Yes/No |