

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

(229)

CRM-M-17164-2019.
Date of Decision:-30.11.2021.

Kishan Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Vivek Singla, Advocate for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 of Cr.P.C. for issuance of directions to the official respondents to consider the representation dated 13.09.2017 (Annexure P-5) to register a criminal case under Section 174-A of IPC against the private respondent, who has been declared as proclaimed person.

Learned counsel for the petitioner has submitted that the petitioner had filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act of 1881') read with Section 420 of IPC against respondent No.5-Jaswinder Singh Riar and in the proceedings of the said complaint, the petitioner had been declared as proclaimed person vide order dated 19.07.2016 by the Judicial Magistrate 1st Class, Rupnagar, with a further direction to the SHO concerned to register an FIR under Section 174-A of IPC against the petitioner. The said

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order is reproduced hereinbelow:-

“Today, the case was fixed for presence of accused after effecting proclamation against him. 30 days period from the date of proclamation has already been elapsed, but he has failed to appear. Further wait is not justified. Therefore, as the offence with which the accused is alleged to have committed does not fall under Section 82 (4) Cr.P.C. he is declared a proclaimed person.

Accordingly, direction is made to the SHO concerned to register an FIR under Section 174-A IPC against the accused. File be consigned to the record room after due compliance with a red ink note that the same shall not be destroyed and shall be taken up as and when accused, against whom proclamation proceedings already stand effected is arrested in the case.

*Sd/-
Judicial Magistrate, 1st Class,
CJ(JD)/JMIC/RC/19.07.2016
Rupnagar.”*

Learned counsel for the petitioner has submitted that in spite of the said order till date, no FIR under Section 174-A has been registered against respondent No.5. It is submitted that the petitioner has given various representations to Senior Superintendent of Police, Rupnagar as well as at other places.

Learned State counsel, on the other hand, submits that so far as the representation dated 13.09.2017 (Annexure P-5) given to the SSP, Rupnagar is concerned, the same had been consigned to the record room as

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the petitioner had given a statement that same may not be looked into till the pendency of the present petition in this Court. He, however, could not deny the fact that the FIR has not been registered till date.

In view of the above-said facts and circumstances, the present petition is disposed of with a direction to respondent No.2-SSP, Rupnagar, to treat the present petition as a representation and to consider the averments made in the same including the averment to the effect of non-registration of the FIR under Section 174-A of IPC in spite, of the orders passed by the Judicial Magistrate 1st Class, Rupnagar dated 19.07.2016 and take appropriate action, in accordance with law, within a period of one month from the date of receipt of certified copy of the present order.

(VIKAS BAHL)
JUDGE

November 30, 2021.

sandeep

Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No