

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

**CRM-M-27069-2019(O&M)
Date of decision:-4.1.2021**

Sumit Soni

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.D.P.S. Joura, Advocate
for the petitioner.

Mr.Karan Garg, AAG, Haryana.

Mr.J.P. Jhangu, Advocate
for respondent No.2.

H.S. MADAAN, J.(ORAL)

Case taken up through video conferencing.

This petition under Section 482 Cr.P.C. has been filed by petitioner – Sumit Soni, aged 34 years, resident of PWD BR Colony, Sector 15, Hisar for quashing/setting aside of order dated 20.1.2015 (Annexure P1) passed by Judicial Magistrate Ist Class, Hisar in case No.3380 of 2013 dated 7.9.2013, vide which the petitioner had been declared as a proclaimed offender in a complaint case titled as “Sandeep Singh Versus Sumit Soni” under Section 138 of Negotiable Instruments

Act and a direction was given to concerned SHO for initiating proceedings under Section 174-A IPC against the petitioner and further for quashing of said FIR No.133 dated 4.4.2019 for the offence under Section 174-A IPC registered with Police Station Civil Lines, Hisar.

At the very outset, it may be said that petitioner – Sumit Soni is an absconder. He cannot file the petition and challenge the order declaring him proclaimed offender in such a manner. Whatever faults he is trying to find out with the order declaring him a proclaimed offender should be brought to the notice of the Court, which has declared him a proclaimed offender so as to get the order set aside and get bail therefrom. This tendency to approach the High Court directly without going to the trial Court first is not proper.

In *Mehnga Singh Versus State of Punjab, 2002(2) R.C.R.(Criminal) 501*, a judgment by this Court, it has been observed that when an accused has been declared as proclaimed offender, a petition against the order under Section 482 Cr.P.C. is not maintainable and that the accused should first move the Court which declared him proclaimed offender and even an objection against validity of proclamation is required to be raised in the first instance before the Court which issued the proclamation and that power under Section 482 Cr.P.C. is not to be exercised in favour of a person, who is absconding or avoiding service.

I find that no ground is there to quash the order declaring the petitioner as proclaimed offender. In terms of the ratio of the authority *State of Madhya Pradesh Versus Pradeep Sharma, 2014(1) R.C.R.(Criminal) 269*, when an accused had absconded and declared as

a proclaimed offender in terms of Section 82 Cr.P.C., he is not entitled to pre arrest bail. Here the accused has been declared as proclaimed offender but admittedly he has not surrendered before the trial Court and has straightway filed this petition challenging the order declaring him as a proclaimed offender, when there is no illegality and infirmity in the order.

No ground is there to quash the FIR since the petitioner had been declared a proclaimed offender and on being informed by the Court, FIR for the offence under Section 174-A IPC has been rightly recorded.

Therefore, petitioner is directed to surrender in the trial Court within a period of 15 days from today and in event of his doing so and moving application for regular bail, the same be disposed of by the trial Court expeditiously.

With the above observations, the petition stands dismissed accordingly.

(H.S.MADAAN)
JUDGE

4.1.2021
Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No