

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-23908-2022
Date of decision : 27.05.2022

Varinder Singh

... Petitioner

Versus

Gurjinder Singh

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Amandeep Chhabra, Advocate
for the petitioner.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. for quashing of impugned order dated 05.09.2019 passed by the Judicial Magistrate Ist Class, Bathinda passed in criminal complaint no.COMA/2581/2017 dated 25.07.2017 titled as “Gurjinder Singh vs. Varinder Singh” vide which the petitioner was declared proclaimed person.

A perusal of file would show that a complaint under Section 138 of the Negotiable Instruments Act, 1881 has been filed by the respondent against the petitioner for dishonour of cheque dated 06.04.2017 issued for an amount of Rs.1 lac. The said complaint was filed after the cheque was returned with the remarks “account closed” and after sending a legal notice. It was averred in paragraph 5 of the complaint under Section 138 of the N.I. Act that despite the legal notice dated 04.07.2017, accused-petitioner failed to make the payment. The Judicial Magistrate Ist Class, Bathinda after recording the finding that the petitioner is absconding or

that the petitioner be served through proclamation for 05.08.2019. Thereafter vide order dated 05.08.2019 the petitioner was declared as proclaimed person. It was observed in the said order that proclamation of the petitioner had already been effected on 01.08.2019 and the statutory period of 30 days had expired and even though the case was called out several times but the petitioner had not put in an appearance.

Learned counsel for the petitioner has submitted that the petitioner is ready to pay an amount of Rs.20,000/- and is also ready to appear on each and every date before the trial Court.

This Court has considered the above said arguments and perused the paper book.

Keeping in view the fact that the petitioner has been declared as proclaimed person, in accordance with law, the present petition deserves to be dismissed. However, in case the petitioner surrenders before the trial Court within one week from today and deposit Rs.20,000/- before the trial Court and thereafter applies for regular bail, the trial Court is directed to consider the said regular bail application within four days from the date of filing of said application.

The trial Court is directed to make a fixed deposit of Rs.20,000/- deposited by the petitioner and pay the same along with interest after conclusion of trial to the complainant in case, the petitioner is convicted and to the petitioner in case, the petitioner is acquitted.

With the aforesaid observations, the petition is dismissed.

(VIKAS BAHL)
JUDGE

May 27, 2022

Davinder Kumar