

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

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CRM-M-36091-2022
Date of decision : 18.11.2022

Vivek Kumar

Petitioner

V/S

State of Haryana and another

Respondents

CORAM : HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Mazlish Khan, Advocate
for the petitioner.

Mr. Munish Sharma, Asstt. A.G., Haryana
for respondent No.1-State.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioner has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of impugned order dated 11.09.2019 passed by learned Judicial Magistrate First Class, Rewari (**Annexure P-3**) whereby the petitioner was declared proclaimed person and FIR No.24 dated 05.02.2020 registered under Section 174-A of the Indian Penal Code, 1860 and all consequential proceedings arising therefrom.

Brief facts of the case are that on 11.02.2015 the petitioner entered into an agreement to sale of his land with mother of respondent No.2/complainant but he failed to execute the sale deed and agreement dated 11.02.2015 was cancelled by mutual settlement. To return the earnest money including interest on it (Rs.29,50,000/-), the petitioner issued four cheques in favour of the complainant. When the complainant presented the cheques in the bank, the same were dishonoured with reasons 'funds insufficient'. Thereafter, the complainant filed a complaint dated 16.03.2017 under Section 138 and 142 of the Negotiable Instruments Act, 1881 against the petitioner. The petitioner was granted bail in the said case. When the petitioner remained absent, non-bailable warrants of arrest was issued against

him. On 20.04.2019 proclamation under Section 82 of the Cr.P.C. was issued against the petitioner and vide impugned order dated 11.09.2019, the petitioner was declared proclaimed person.

Learned Counsel for the petitioner submits that the petitioner has been falsely implicated in the case. The non-bailable warrants issued against the petitioner was not served and received back with the report that the petitioner was not found at given address. On 11.09.2019, the trial Court wrongly declared the petitioner as proclaimed person without following the mandatory procedure as laid down in the Cr.P.C. The petitioner never received warrant nor received any information regarding the declaration as a proclaimed person. Absence of the petitioner in the Court was neither intentional nor willful. The petitioner undertakes not to remain absent from the trial in future.

I have heard learned counsel for the petitioner and gone through the paper-book.

Perusal of the file shows that no sufficient reason has been given by the petitioner for his non-appearance before the Trial Court. Neither the petitioner appear/surrender before the Trial Court till date nor he filed any application for grant of anticipatory bail. Keeping in view the nature of averments and negligent conduct of the petitioner, I do not deem it fit to quash the impugned order dated 11.09.2019.

Dismissed.

18.11.2022

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**(ASHOK KUMAR VERMA)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No