

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

CRM-M-46395-2022

Date of Decision: October 11, 2022

Ajit Singh Shahi

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Deepak Vashishth, Advocate for the petitioner.

AMAN CHAUDHARY, J.

Present petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of the order dated 19.10.2019, Annexure P-7, passed by the learned Chief Judicial Magistrate, Sirsa, whereby the petitioner has been declared as proclaimed offender in the complaint filed under Section 138 of the Negotiable Instruments Act, 1881.

Learned counsel submits that the petitioner came to know about the impugned order when the police personnel visited his office at Karnal, where he was working as Food Inspector. It is his submission that neither did he receive any legal notice nor the summons to the complaint filed under Section 138 of the Negotiable Instruments Act, 1881 were received by him. He further submits that the certified copies of the complaint as also the orders were applied by the petitioner from the Court and only after obtaining the same, he became aware that a complaint had been filed against him and the summons/warrants had been issued to procure his presence. He further submits that the petitioner is serving as a Food Inspector in the Food and Supply Department and was posted at

Karnal and now posted at Gharaunda, District Panipat. He also submits that FIR under Section 174-A IPC has now been registered against the petitioner. It is also submitted that the absence of the petitioner was neither wilful nor deliberate and only seeks one opportunity to appear before the trial Court even if the same is subject to costs. In support of his arguments learned counsel for the petitioner relies upon judgment of this Court in CRM-M-38277-2022 dated 26.08.2022, in the case of “**Surjit Singh Vs. State of Punjab**” and CRM-M-39000-2022, titled as '**Raghav vs. State of Punjab**', decided on 09.09.2022.

Notice of motion.

At the asking of the Court, Ms. Aditi Girdhar, AAG, Haryana, accepts notice and submits that the impugned order has been rightly passed by the learned trial Court.

In this case, notice has not been issued to the complainant as he has not been impleaded as respondent party and as no order prejudicial to the rights of the complainant, is being proposed to be passed by this Court.

Heard the arguments advanced by learned counsel for the parties.

This Court in **Major Singh vs. State of Punjab**, CRM-M-3649-2022, decided on 15.9.2022, in somewhat similar circumstances, while setting aside the order, observed thus:

“This Court while noticing the *bonafide* of the petitioner; explanation given for his absence being justified; the object to be achieved being to secure the presence of the petitioner in the proceedings; expedition of trial and its early culmination being in the interest of the parties; in order to meet the ends of justice; judgments referred to above being applicable to the

instant case, is allowing this petition, though deeming it appropriate to impose certain conditions for meticulous adherence at the hands of the petitioner.

In view of the forgoing conclusion and in the peculiarity of the facts and circumstances of the case, as also held by the Coordinate Bench of this Court in the cases of **Naveen Rao** (supra) and **Dimple Kumar** (supra) and in the interest of justice, the impugned order dated 19.7.2022, Annexure P5, is hereby set aside.”

In view of the facts and circumstances of this case and the judgments referred to above, the impugned order dated 19.10.2022, is set aside, subject to deposit of Rs.10,000/- with the trial Court, which be disbursed to the complainant forthwith. The petitioner is directed to surrender before the trial Court on or before 21.10.2022, before the trial Court and furnish his fresh bail/ surety bonds. The aforesaid cost be disbursed to the complainant forthwith, only thereafter, the petitioner be allowed to bail. On so doing, the trial Court shall release him on bail by imposing heavy surety to its satisfaction. He is also directed to furnish an undertaking by way of his affidavit that he will appear on each and every date of hearing before the trial Court, unless specifically exempted by the Court.

Before parting with this order, it is made abundantly clear that in case the petitioner does not adhere to the aforesaid, the present petition shall be deemed to have been dismissed without any reference to this Court.

October 11, 2022

sarita

Whether reasoned/speaking:

Whether reportable:

(AMAN CHAUDHARY)
JUDGE

Yes /No

Yes /No