

CRM-M-50039 of 2022

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

CRM-M-50039 of 2022
Date of decision: 29.10.2022

Ashok Sharma

.....Petitioner

vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Shivam Sharma, Advocate, for the petitioner.
Mr. Gaurav Sharma, Assistant Advocate General, Haryana.

ASHOK KUMAR VERMA, J. (ORAL)

Through this petition under Section 482 Cr.P.C. prayer has been made for setting aside order dated 20.08.2019 passed by the Judicial Magistrate Ist Class, Gurugram, whereby petitioner has been declared as proclaimed person under Section 82 Cr.P.C. and directions have been issued to initiate proceedings under Section 174-A IPC against him in complaint case bearing NACT No.8731 of 2016 titled “Bhagwati Shuttering Store v. Mihir Buildcon Pvt. Ltd. and another”.

Respondent No.4 filed a complaint under Section 138 read with Section 141 and 142 of the Negotiable Instruments Act, 1881 against the petitioner as the petitioner failed to discharge his liability and the cheques issued by him were dishonoured on account of “Insufficient Funds”.

I have heard learned counsel for the petitioner as well as learned State counsel and perused the paperbook.

Perusal of file shows that petitioner is evading Court

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proceedings. Therefore, after following due procedure prescribed under the law, he has been declared proclaimed person by the trial Court vide impugned order. Moreover, impugned order was passed way back on 20.08.2019 and the petitioner has challenged the same through present petition after a period of more than two years.

Furthermore, this tendency to approach the High Court directly without going to the trial Court first is not proper. In *Mehnga Singh v. State of Punjab*, 2002(2) R.C.R.(Criminal) 501, this Court has 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.

In view of the above, I find that no ground is there to quash the order declaring the petitioner as proclaimed person.

Dismissed.

October 29, 2022
R.S.

(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No