

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

CRM-M-50109 of 2022
Date of decision: 29.10.2022

Surinder Singh Bains

.....Petitioner

vs.

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Rishabh Gupta, Advocate, for the petitioner.
Mr. G.S. Sandhu, Deputy Advocate General, Punjab.

ASHOK KUMAR VERMA, J. (ORAL)

Through this petition under Section 482 Cr.P.C. prayer has been made for quashing impugned order dated 06.05.2022 (Annexure P-5) passed by the trial Court whereby petitioner has been declared as proclaimed offender in complaint case bearing NACT No.664 of 2018 dated 27.08.2018.

Brief facts of the case are that respondent No.2 filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 against the petitioner alleging therein that the cheques given by the petitioner on account of certain investment in the land for which he used to get 1.5% interest per month and after the year 2015 he failed to pay the amount and in the year 2018, two cheques bearing No.664721 dated 20.06.2018 amounting to ₹12 lac and 664720 dated 15.06.2018 amounting to ₹10 lac drawn on State Bank of India were issued by the same were dishonoured with a memo dated 10.07.2018 with remarks “no such account”.

Petitioner was summoned by the trial Court. As the petitioner failed to

appear before the trial Court despite publication and issuance of proclamation, he has been declared proclaimed offender vide impugned order.

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 proceedings. Therefore, after following due procedure prescribed under the law, he has been declared proclaimed offender by the trial Court vide impugned order.

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 no ground to quash the order declaring the petitioner as proclaimed offender.

Dismissed.

(ASHOK KUMAR VERMA)
JUDGE

October 29, 2022
R.S.

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No