

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

**CRM-M-58133-2022**

**Date of Decision: 13.12.2022**

**RAJAT**

**...Petitioner**

**V/s**

**STATE OF HARYANA AND ANOTHER**

**...Respondent**

**CORAM:    HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

**Present:**    Mr. Fateh Saini, Advocate  
for the petitioner.

Mr. Bhupender Singh, DAG Haryana.

\*\*\*\*

**DEEPAK MANCHANDA J.**

The petitioner has preferred this petition under Section 482 of the Code of Criminal Procedure for quashing of the order dated 17.10.2022 (Annexure P-1) passed by the Judicial Magistrate Ist Class, Ambala in complaint No. 1596 of 2017 dated 24.08.2017 under Section 138 of Negotiable Instruments Act and all subsequent proceedings arising therefrom.

Learned counsel for the petitioner contends that petitioner was summoned in a complaint under Section 138 of Negotiable Instruments Act filed by respondent No. 2 and the petitioner was regularly appearing since then on each and every date. It is further submitted that during the pendency of the complaint, a compromise was effected between the parties, according to which alleged amount would be paid to the complainant and he will withdraw the said complaint. Thereafter, petitioner paid the whole amount to the complainant and was under the impression that complainant would withdraw the said complaint, therefore, he did not appear before the trial Court on 17.10.2022.

However, the complainant could not withdraw his complaint due to work being suspended by District Bar Association, Ambala and the petitioner was declared proclaimed person vide order dated 17.10.2022. Thereafter, learned counsel for the petitioner refers to order dated 05.12.2022 (Annexure P-2) passed

the complaint filed under Section 138 of Negotiable Instruments Act 1881, acknowledging the fact that accused has made the entire payment.

He further submits that the petitioner is ready and willing to surrender before the learned trial Court.

Notice of motion.

At this stage, Mr. Bhupender Singh, DAG Haryana, who is present in the Court accepts notice on the asking of the Court and submits that the order of proclamation proceedings has been issued against the petitioner on the sole ground of his absence on 17.10.2022.

The objective of Section 82 of the Code is to secure the presence of the accused. Once the accused is willing to appear before the trial Court, the objective has been achieved.

Consequently, the instant petition stands allowed and impugned order dated 17.10.2022 (Annexure P-1) is set aside. However, arrest of the petitioner is stayed only for a period of 1 week enabling him to put in appearance before the trial Court and he is directed to surrender on or before 21.12.2022 and on his doing so, he would be admitted to bail subject to his furnishing personal bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate.

It is made clear that if the petitioner fails to appear before the trial Court within the stipulated time, interim protection granted to him will deemed to have been automatically vacated.

**(DEEPAK MANCHANDA)**  
**JUDGE**

13.12.2022

*Ajay Goswami*  
AJAY GOSWAMI  
2022.12.15 09:47  
I attest to the accuracy and  
integrity of this document

Whether speaking/reasoned  
Whether reportable

Yes  
Yes/No