

**(117) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-2331-2023

Date of Decision:17.01.2023

Umesh Kumar Jain and others

... Petitioners

Versus.

State of Haryana and others

... Respondents

CORAM : HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present : Mr. Kartar Singh, Advocate for the petitioners.

SANDEEP MOUDGIL, J. (Oral)

This petition has been filed under Section 482 Cr.P.C., for quashing of Impugned order dated 27.10.2021 (Annexure P-7).

The Court below has cancelled the bail bonds and forfeited the same to the State whereby as a consequence bail earlier granted to the petitioners also stood cancelled. The aforementioned order came to be passed in a complaint filed under Section 138 of Negotiable Instruments Act, 1881 wherein the proclamation under Section 82 of Cr.P.C was issued which was received back duly executed. A perusal of the order dated 27.10.2022 (Annexure P-10) further reveals that the statement of Executing constable was recorded regarding execution of proclamation, according to which, proclamation was duly effected and statutory period of 30 days was also complete. Case was called several times still the accused-petitioners failed to appear. It was already 3:35 p.m. The petitioners along with other accused were declared proclaimed persons under Section 82 Cr.P.C. Intimation in this regard was also sent to concerned Police Station for initiation of proceedings against the petitioners under Section 174-A IPC with a direction for registration of an FIR for the said offence. The case was thereafter adjourned to

4.11.2022.

It is the admitted submission before this Court that the accused since then has not put in appearance as they failed to appear on 4.11.2022 and thereafter. From the record of the petition placed before this Court as well as the hearing makes it abundantly clear that since 27.10.2021, the petitioners made no attempt to surrender or to move an application for bail. It was only an appeal which was preferred against the said order dated 27.10.2022 but till today there is no interim order.

A perusal of Annexure P-12 further depicts the service of process over the petitioners.

However, at this stage, learned counsel for the petitioners submits that he changed the address whereas the service was effected at the old address which is reflected in Annexure P-12. In support of this, he has placed on record letters dated 15.05.2019 meaning thereby he revealed the address in May, 2019. This fact is also asserted in the Aadhar Card which is attached to the petition as an identity of proof at page 84 of the paper book showing the change of address.

However, there is neither any cogent evidence nor any oral submission before this Court to demonstrate the bona fide act of the petitioners. Moreover, before this Court, no attempt is evident to have been made with regard to the furnishing of the fact of change of address either to the Court or to any other concerned authority till date so as to accept the filing of the present petition.

In the light of the aforesaid fact, this Court is fully convinced that it is an intentional and deliberate attempt to evade the process of Court so as to put a break in the progress of proceedings in the complaint case filed under Section 138 of the Negotiable Instruments Act wherein an amount of Rs.30,00,000/- is involved as is evident from para-4 of the petition arising out of two cheques bearing Cheque No.379180 dated 30.04.2015 and Cheque No.379181 dated

Having heard the learned counsel for the petitioners and after examining the record available on the file, no case is made out to quash the order dated 27.10.2021 (Annexure P-7).

Accordingly, this petition is dismissed being devoid of any merit.

17.01.2023
rajeev

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No