

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

207

(1)

CRM-M-2700-2020

Date of decision: 13.04.2023

Prathmesh Barar

.....Petitioner

Versus

Provident Fund Inspector

.....Respondent

(2)

CRM-M-2710-2020

Prathmesh Barar

.....Petitioner

Versus

Provident Fund Inspector

.....Respondent

(3)

CRM-M-2723-2020

Prathmesh Barar

.....Petitioner

Versus

Provident Fund Inspector

.....Respondent

(4)

CRM-M-2758-2020

Prathmesh Barar

.....Petitioner

Versus

Provident Fund Inspector

.....Respondent

(5)

CRM-M-12408-2021

Prathmesh Barar

.....Petitioner

Versus

State of Haryana and another

.....Respondents

(6)

CRM-M-12413-2021

Prathmesh Barar

.....Petitioner

Versus

State of Haryana and another

.....Respondents

(7)

CRM-M-12590-2021

Prathmesh Barar

.....Petitioner

Versus

State of Haryana and another

.....Respondents

(8)

CRM-M-12626-2021

Prathmesh Barar

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Kamaldeep Singh Sidhu, Advocate
for the petitioner.

Mr. R.S. Chauhan, Advocate
for the respondent-Provident Fund Inspector.

Mr. Chetan Sharma, AAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. This order shall dispose of above mentioned 08 petitions as the issues as well as the facts involved in them are identical.

2. In the petitions mentioned at Sr. No.(1) to (4), the petitioner is seeking quashing of orders dated 02.07.2016 passed by learned Judicial Magistrate 1st Class, Faridabad in Complaint Cases titled as 'Provident Fund Inspector Vs. M/s Nuchem Limited and others' under Sections 14(1A)/14A of the Employees Provident Fund & Miscellaneous Provisions Act, 1952 (Annexures P-3), whereby he was declared a proclaimed person. In the petitions mentioned at Sr. No.(5) to (8), the petitioner is seeking quashing of FIR Nos.96, 94, 95 and 93

respectively dated 16.02.2020 under Section 174-A of the IPC registered at Police Station Faridabad N.I.T., District Faridabad (Annexures P-9) which were registered in pursuance of the abovesaid orders dated 02.07.2016 passed by learned Judicial Magistrate 1st Class, Faridabad.

3. Learned counsel appearing for the petitioner submits that the petitioner was declared a proclaimed person in contravention of the statutory provisions of Section 82 of the Cr.P.C. as on the face of it, it was evident that there had been blatant non-compliance of the above statutory provisions.

4. While inviting the attention of this Court to the zimni orders (Annexure P-2), learned counsel for the petitioner submits that without the petitioner being granted period of 30 days to appear before the Trial Court from the date of publication of proclamation, the impugned order had been erroneously passed.

5. It has still further been submitted by learned counsel for the petitioner that service of proclamation was also not effected on the petitioner as it was a matter of record that he had shifted to a society named Mahindra Chloris in Sector 19, Faridabad in the year 2011 and had not been residing at the address given in the complaint. In support, learned counsel invited the attention of this Court to Annexure P-5.

6. Learned counsel for the petitioner still further submits that it is also a matter of record that the petitioner was discharged by the Trial Court, Faridabad in the main cases, vide orders dated 24.11.2022 and the said orders had gone unchallenged. Therefore, in the above

facts and circumstances, continuation of proceedings under Section

174-A of the IPC would serve no useful purpose.

7. Per contra, learned counsel appearing for the respondent i.e. Provident Fund Inspector submits that the petitioner was declared a proclaimed person after due compliance of the procedure prescribed under Section 82 of the Cr.P.C. He further submits that the petitioner had been intentionally absconding and had due knowledge about the pendency of the criminal proceedings against him. Hence, the petitions deserved to be dismissed on this ground alone.

8. However, learned counsel appearing for the respondent-Provident Fund Inspector has not been able to dispute the submissions made by the counsel for the petitioner that the petitioner had since been discharged in all the main cases vide orders dated 24.11.2022 of the learned Trial Court, Faridabad and till date no challenge had been made to those orders of discharge.

9. I have heard learned counsel for the parties and perused the relevant material on record..

10. A perusal of the zimni orders annexed with the petitions reveal that the statutory provisions of Section 82 of the Cr.P.C. were indeed not fully complied with before declaring the petitioner a proclaimed person inasmuch as the petitioner was not given 30 days period to appear before the Court, from the date of service of proclamation.

11. This Court, therefore, finds merit in the submissions made by the learned counsel for the petitioner that service of proclamation was not properly effected upon the petitioner and still further the version of the petitioner that he had not been residing at the address

since the year 2011, where the proclamation was served, stands corroborated from Annexure P-5, which are minutes of the meeting of Resident Welfare Association of “Chloris Welfare Association” dated 29.02.2012 wherein the petitioner's presence stands reflected and also that he was selected as President of the Resident Welfare Association.

12. Furthermore, it is a matter of record that the petitioner has since been discharged by the Trial Court in the main cases vide orders dated 24.11.2022 and admittedly till date the said orders of discharge remain unchallenged.

13. Therefore, in the above facts and circumstances, continuation of proceedings under Section 174-A of the IPC would serve no useful purpose.

14. As a sequel to the above discussion, the instant petitions stand allowed and all the above-mentioned FIRs registered under Section 174-A of the IPC and orders dated 02.07.2016 whereby the petitioner was declared a proclaimed person are quashed.

13.04.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No