

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

115

CRM-M-3718-2023 (O&M)

Date of decision: 07.02.2023

SONIYA SINGH

....Petitioner(s)

Versus

STATE OF HARYANA AND ANOTHER

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Ms. Divya Arora, Advocate for
Dr. Pankaj Nanhera, Advocate
for the petitioner.

AMAN CHAUDHARY. J.

Present petition has been filed for quashing of order dated 12.10.2018, Annexure P-1, passed by learned Judicial Magistrate Ist Class, Karnal in Complaint No.NI.Act/1678/2017 dated 26.05.2017 under Section 138 of the Negotiable Instruments Act, vide which the petitioner has been declared as proclaimed person.

Learned counsel for the petitioner contends that a complaint was filed under Section 138 of the Negotiable Instruments Act, wherein wrong address was mentioned by the complainant as S.S. Impress Dairy at Raghav Farm, Village Asgapur, Sector 128, Noida (U.P.) instead of the address of the petitioner, which is 1091, ATS Village Sector 93, Noida, therefore he was not served and was wrongly declared proclaimed person and consequently FIR No.174-A was registered on 24.10.2022. In fact the petitioner did not even receive the legal

notice for demand regarding dishonour of the cheque in question. The petitioner was earlier the partner of M/s S.S Impress Dairy, but had disassociated from the said firm. It is on account of the aforesaid facts that summons had not been served upon the petitioner and he remained absented from the proceedings. He filed an application for anticipatory bail before the trial Court, which was dismissed being not maintainable. She, however, submits that the petitioner is ready and willing to join the proceedings, and prays that one opportunity may be granted for the petitioner to surrender before the learned trial Court, which may even be, subject to payment of costs. In support of her arguments learned counsel for the petitioner relies upon the orders of this Court in CRM-M-38277-2022 dated 26.08.2022, in the case of “Surjit Singh Vs. State of Punjab”, CRM-M-39000-2022, titled as “Raghav vs. State of Punjab”, decided on 9.9.2022 and CRM-M-36490-2022, “Major Singh vs. State of Punjab”, decided on 15.9.2022.

Notice of motion.

Mr. Tanuj Sharma, AAG Haryana who has appeared on receipt of advance copy of the petition, opposes the petition by submitting that the impugned order has been rightly passed by the learned trial Court.

Since no order that may prejudice the interest of the private respondents is proposed to be passed, therefore, there is no necessity of issuing notice to them to seek their response at this stage.

Heard.

The very purpose of issuance of non-bailable warrants, is to compel and secure the presence of the accused to face trial and establish the rule of law so as to ensure finalization of the proceedings.

Adverting to the facts of the present case that due to mentioning of wrong address of the petitioner by the complainant in the complaint, he could not

be served leading to his non-appearance before the trial Court, which appears to be justified explanation of absence. Petitioner is stated to have not even received the legal notice for this reason. At times, the accused can be prevented by sufficient reasons to put an appearance before the Court on a given date and every such absence cannot necessarily be construed as deliberate and willful. However, it is incumbent upon him to join the proceedings, before the trial Court, for the culmination of the same. Considering the fact that the absence of the petitioner being not willful or deliberate and his readiness and willingness to surrender and join the proceedings, in case one opportunity is granted to the petitioner, no prejudice shall be caused to any of the parties, rather his joining the proceedings would help expediting the trial. Thus, in order to make the ends of justice meet and finding orders referred to above being applicable to the instant case, the present petition deserves to be allowed.

In view of the facts and circumstances of this case and the orders referred to above, the impugned order dated 12.10.2018, Annexure P-1 is set aside subject to the petitioner surrendering before the trial Court on or before 22.02.2023 and depositing of Rs.10,000/- with the trial Court, which shall further be disbursed to the complainant forthwith and furnish his fresh bail/surety bonds. On so doing, the trial Court shall release him on bail by imposing surety to its satisfaction. He is also directed to furnish an undertaking by way of his affidavit that he will appear on each and every date of hearing before the trial Court, unless specifically exempted by the Court. He shall also surrender his passport and will not leave the country without prior permission of the Court or the trial Court may impose any other condition that it may deem appropriate in the facts and circumstances of the present case.

Before parting with this order, it is made abundantly clear that in case

the petitioner does not adhere to the aforesaid, the present petition shall be deemed to have been dismissed without any reference to this Court.

(AMAN CHAUDHARY)
JUDGE

February 07, 2023

S.Sharma(syr)

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