

CRM-M-11960-2023

2023:PHHC:065021

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

CRM-M-11960-2023

Decided on:-03.05.2023

Tirlok Chand

....Petitioner..

vs.

State of Haryana and another

....Respondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Kunal Dawar, Advocate for the petitioner.

Mr. Gaurav Bansal, DAG, Haryana.

Mr. Sandeep S. Majithia, Advocate for respondent No.2.

HARKESH MANUJA J. (Oral)

1. By way of present petition filed under Section 482 Cr.P.C., prayer has been made for seeking quashing of order dated 20.02.2023 passed by the court of learned Judicial Magistrate Ist Class, Karnal, whereby the petitioner was declared as a proclaimed person.

2. In pursuance to a complaint filed under Sections 138 and 142 of the Negotiable Instruments Act, 1881 (herein after referred to as "NI Act") at the instance of respondent No.2, petitioner was summoned vide order dated 20.10.2016. During trial, the petitioner was declared as proclaimed person by the learned trial court vide order dated 20.02.2023, followed by registration of FIR No.375 dated 01.03.2023.

3. By way of present petition, aforesaid order has been impugned at the instance of petitioner.

4. Learned counsel for the petitioner submits that the proclamation

under Section 82 Cr.P.C. was ordered against the petitioner by the learned trial court on 08.12.2022 with 18.01.2023 being the date for appearance. He further submits that on 18.01.2023, the trial court despite having recorded that the proclamation under Section 82 Cr.P.C. stood executed on 12.12.2022, adjourned the date of hearing to 20.02.2023 for the purpose of awaiting appearance of the petitioner. Learned counsel thus submits that the declaration of petitioner as a proclaimed person on the adjourned date i.e. 20.02.2023 was wholly illegal as there was no proclamation ordered by the trial court for the purpose of securing the presence of the petitioner on 20.02.2023.

5. On the other hand, learned State counsel, assisted by Mr. Sandeep S. Majithia, Advocate representing respondent No.2-complainant vehemently opposed the prayer made herein while submitting that the petitioner was deliberately evading the appearance before the court so as to delay the main proceedings arising out of the complaint especially, in view of the huge amount involved therein.

6. I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the petitioner.

7. A perusal of order dated 08.12.2022 passed by the learned trial court shows that the proclamation under Section 82 Cr.P.C. was issued for 18.01.2023 being the date for appearance and the same was effected on 12.12.2022, however, on the date fixed i.e. 18.01.2023, the trial court instead of declaring the petitioner as proclaimed person on account of his non-appearance, adjourned the hearing to 20.02.2023 and on the said date, the

petitioner was declared as proclaimed person, however, perusal of order dated 20.02.2023 shows that there was no direction for issuance of any fresh proclamation so as to procure the presence of petitioner in furtherance of Section 82 Cr.P.C., thus, the declaration of petitioner as proclaimed person on 20.02.2023 in the absence of any proclamation for the said date was wholly uncalled for and in violation of Section 82 Cr.P.C.

8. In addition, it may also be pointed out here that in pursuance to an order dated 13.03.2023 passed by this Court, the petitioner submitted himself to the jurisdiction of trial court on 21.03.2023 and furnished his bail bonds/surety bonds, besides, depositing the cost towards the Punjab and Haryana High Court Association Lawyers Family Welfare Fund.

9. In view of the above discussion, petition is allowed. Order dated 20.02.2023 passed by the learned trial court, declaring the petitioner as proclaimed person as well as all consequential proceedings arising therefrom including FIR No.375, dated 01.03.2023, under Section 174-A IPC, Police Station Karnal, Civil Lines, are hereby quashed.

10. Considering the fact that the complaint is pending since October 2016, the trial court is requested to dispose of the same within a period of 6 months.

03.05.2023

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(HARKESH MANUJA)**JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/ No