

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

CRM-M-13602-2022

Date of Decision: December 19, 2023

JODH SINGH

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Dhanpat Rai Singla, Advocate for
Mr. Inderjit Sharma, Advocate for the petitioner.

Mr. Gurlal Singh Dhillon, AAG, Punjab.

HARKESH MANUJA, J. (ORAL)

1. By way of present petition, prayer has been made for quashing of the FIR No.219 dated 05.09.2018 registered under Section 174-A IPC at P.S. Civil Lines Bathinda, District Bathinda.

2. Briefly stating, on account of dishonour of a cheque amounting to Rs.12,000/-, the complaint under section 138 of Negotiable Instruments Act, 1881 was filed against the petitioner wherein, he was summoned. Having failed to appear in pursuance of a summoning order, the petitioner was declared as proclaimed offender vide order dated 16.08.2018 followed by registration of the aforementioned FIR against him under Section 174-A IPC. Later, the petitioner appeared in the proceedings under Section 138 of Negotiable Instruments Act, 1881 and was even admitted to bail followed by withdrawal of those proceedings on 10.12.2018 in terms of a settlement

CRM-M-13602-2022

arrived at between the petitioner and complainant therein. The grievance of the petitioner in the present petition is against FIR No.219 dated 05.09.2018 registered under Section 174-A IPC.

3. Learned counsel for the petitioner submits that the proclamation in the present case was never carried out in terms of the mandate of Section 82 of CrPC and thus, declaration of petitioner as proclaimed offender followed by registration of FIR was wholly vitiated.

4. On the other hand, learned counsel for the respondent-State submits that the petitioner chose not to appear before the trial Court despite having notice about the pendency of the proceedings against him.

5. I have heard learned counsel for the parties and gone through the paper-book. I find substance in the submissions made by learned counsel for the petitioner.

6. A perusal of the statement of the executant-Police Officer which was recorded on 01.07.2018 before the Court concerned in the proceedings under section 138 of Negotiable Instruments Act, 1881 shows that the proclamation was never read over in public place in terms of Section 82(2)(i)(a) of CrPC. Thus, the proclamation being carried out by the executant-Police Officer in violation of the mandate of Section 82 of CrPC, the proceedings declaring the petitioner as proclaimed offender based thereupon were wholly uncalled for. Thus, on account of non-compliance of aforesaid provision, the declaration of petitioner as proclaimed offender cannot be sustained. Section 82 of the

CRM-M-13602-2022

CrPC which primarily relates to the appearance of the individual before the Court stems from Article 21 of the Constitution of India and thus, being inviolable, has to be followed mandatorily.

7. In view of the above, FIR No.219 dated 05.09.2018 registered under Section 174-A IPC, based on declaration of the petitioner as proclaimed offender is hereby quashed.

19.12.2023

Tejwinder

**(HARKESH MANUJA)
JUDGE**

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>