

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

113

CRM-M-19303-2023 (O&M)

Date of decision: 21.04.2023

SANJIV NARULAA @ SANJEEV NARULA

....Petitioner(s)

Versus

STATE OF HARYANA AND ANOTHER

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Gautam Dutt, Advocate
for the petitioner.

AMAN CHAUDHARY. J.

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of the order dated 08.04.2019 passed by the learned Presiding Officer-cum-JMIC-Special Environment Court, Faridabad in complaint No.129/2014, whereby the petitioner has been declared a proclaimed person and FIR No.466 dated 11.08.2019 registered under Section 174-A IPC, 1860 at Police Station Faridabad Central, District Faridabad.

2. Learned counsel contends that the petitioner was declared proclaimed person vide order dated 08.04.2019 on a wrong premise, as the address of the petitioner in the memo of parties was wrongly mentioned as E-109 Greater Kailash-II, New Delhi, which though was correctly mentioned in the 1st complaint filed against him by the same department, wherein the petitioner had joined proceedings and had consequently been acquitted by the trial Court. However, in the present complaint due to the address being wrong, the petitioner was not served and was thus unable to cause appearance. However, on becoming aware of the same, he appeared before the Court and surrendered on 06.01.2020, upon

which he was granted bail vide Annexure P-6, proceedings whereafter are continuing. As a consequence of having been declared proclaimed person in the said complaint, FIR under Section 174-A came to be registered against the petitioner, the continuation of which he submits would be an abuse of process of the Court in view of the factum of his having joined the proceedings. He relies on the judgments passed by this Court in the cases of **Raj Kumar vs. State of Haryana** in CRM-M-5895-2012, decided on 13.09.2012 and **Vikas Sharma vs. Gurpreet Singh Kohli and another** in CRM-M-32465-2017, decided on 13.09.2017.

3. Notice of motion.

4. 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.

5. Since no order that may prejudice the interest of respondent No.2 is proposed to be passed, therefore, there is no necessity of issuing notice to it and seek response.

6. Heard.

7. It would be apposite to refer to the judgment in the case of **Vikas Sharma** (supra), wherein this Court quashed the proceedings under Section 174-A IPC, being an abuse of process of the Court, on the ground that the petitioner, who had been declared proclaimed person, having surrendered before the trial Court was ordered to be released on bail.

8. 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.

9. Adverting to the facts of the present case that due to mentioning of wrong address of the petitioner 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. 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, such as in this case. 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 having surrendered before the trial Court and after grant of bail, he joined the proceedings, thus the continuation of proceedings under Section 174-A IPC would amount to abuse of process of law. The present petition deserves to be allowed.

10. In view of the aforesaid facts and circumstances of the case and the decision referred to hereinabove, FIR No.466 dated 11.08.2019 under Section 174-A IPC, 1860 registered at Police Station Faridabad Central, District Faridabad is hereby quashed.

11. Accordingly the present petition is allowed.

(AMAN CHAUDHARY)
JUDGE

April 21, 2023

M.Kamra

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