

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

114 (02 cases)

AMRIT PAL

1. CRM (M) Nos. 19286 of 2023

..... Petitioner

Versus

STATE OF HARYANA AND ANOTHER

..... Respondents

2. CRM (M) Nos. 19501 of 2023

AMRIT PAL

..... Petitioner

Versus

STATE OF HARYANA AND ANOTHER

..... Respondents

Decided on : April 24, 2023

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Shiv Kumar Sharma, Advocate
for the petitioner(s) in both the cases.

Ms. Gaganpreet Kaur, AAG, Haryana.

NAMIT KUMAR, J. (Oral)

1. By this common order, both the petitions filed by the petitioner(s) under Section 482 Cr.P.C. for setting aside the impugned orders dated 13.02.2023 passed by the court of learned Judicial Magistrate Ist Class, Panchkula in Case No.NACT-364-2020 and Case No.NACT-363-2020 (DOI 12.06.2020) titled as “*Satish Kumar Goyal versus Aggarwal Timber and Plywood etc.*”, whereby the petitioner has been declared as Proclaimed Offender and resultantly FIR Nos.112 & 113 dated 06.03.2023 (Annexure P-7 in both the cases) have been registered, are disposed of as involving common question of law and facts.

2. Learned counsel for the petitioner(s) *inter alia* submits that in both the complaints under Section 138 of Negotiable Instruments Act, 1881 filed by Satish Kumar Goel-complainant, upon being summoned by the trial court, the petitioner(s) was facing trial and regularly appearing before the trial court, however, due to miscommunication between his previously engaged counsel, he could not appear before the trial court on 22.09.2022 and resultantly, non-bailable warrants were issued against him and consequential proceedings under Section 82 of Cr.P.C. were initiated against him in both the cases, vide impugned orders dated 13.02.2023, which ultimately resulted into registration of FIR Nos.112 & 113 dated 06.03.2023 (Annexure P-7 in both the cases) and initiation of proceedings under Section 174-A IPC.

3. He further submits that aggrieved against the order(s) dated 22.09.2022, whereby warrants of arrest were issued against the petitioner(s), he preferred anticipatory bail applications before the Court of learned Additional Sessions Judge, Panchkula, which were dismissed vide order dated 06.04.2023 (Annexure P-8) by the said Court, being devoid of merits.

4. I have heard learned counsel for the petitioner(s) and perused the case file(s)/record of both the cases.

5. The facts and circumstances of the present case would clearly indicate that the absence of the petitioner(s) is not unintentional. Contention of the learned counsel for the petitioner that due to miscommunication between the petitioner and his counsel, petitioner could not appear before the trial Court on 22.09.2022 cannot be accepted inasmuch as it is the duty of the accused to be vigilant about the Court proceedings and also for the reason that now-a-days all the dates are available on the official websites of the Courts. So, the concocted story put forth by petitioner cannot be believed by any stretch of imagination,

since a perusal of the record shows that the petitioner-accused is evading the compliance of order dated 02.07.2022 passed by the court of learned Judicial Magistrate Ist Class, Panchkula, in Case No.NACT-363-2020 (DOI 12.06.2020) titled as “*Satish Kumar Goyal versus Aggarwal Timber and Plywood etc.*”, whereby the trial court while exercising powers conferred under Section 143-A of the NI Act, has allowed the application moved by the complainant directing the petitioner to pay 20 % of the cheque amount to the complainant and against that order, the petitioner has earlier also approached this Court by filing CRM-M-43301-2022 for setting aside the aforesaid order 02.07.2022, which was dismissed by this Court vide order dated 16.01.2023. So, it can be easily construed that the petitioner is only evading the compliance of aforesaid order 02.07.2022 *qua* making of part payment to the tune of 20 % of the cheque amount to the complainant and for this reason only he has not appeared before the trial court, as a result he was declared Proclaimed Person and proceedings under Section 174-A of IPC have been initiated, so now approaching this Court by way of filing the instant petition, the petition is just a abuse of the process of the law being a delaying tactics for not making the part payment i.e 20 % of the cheque amount to the complainant.

6. Learned counsel for the petitioner(s) could not point out any patent illegality in the impugned order passed by the learned trial Judge so as to enable this Court to take a different view than the one taken by the learned trial Court as well as the court of learned Additional Sessions Judge, Panchkula, while dismissing the anticipatory bail application(s) of the petitioner(s). Therefore, keeping in view the peculiar facts and circumstances, these cases have not been to be an appropriate case(s) by this Court, for exercising its inherent powers under

Section 482 Cr.P.C.

7. No other argument was raised.
8. Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that present petition(s) are wholly misconceived, bereft of merit and based on concocted story without any substance, thus, it must fail, as no case for interference has been made out. Thus, this Court is of the opinion that the learned trial Court has committed no illegality in drawing its conclusion for declaring petitioner(s) as a Proclaimed Person under Section 82 Cr.P.C. in both the cases and directing registration of FIRs under Section under Section 174 A IPC, since it is a distinct and separate offence, so no ground is made out to interfere in impugned orders.
9. Resultantly, with the abovesaid observations made, present petition(s) are dismissed, however, with no order as to costs.

April 24, 2023
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(NAMIT KUMAR)
JUDGE

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