

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

CRM-M-19980-2023

Date of decision : 24.04.2023

Rahul Sharma

.....Petitioner

versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Premjit Singh Hundal, Advocate
for the petitioner.

Mr. B.S. Virk, DAG, Haryana.

RAJESH BHARDWAJ, J.

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing of order dated 11.07.2022 passed by learned Judicial Magistrate Ist Class, Panchkula vide which he was declared Proclaimed Person in Complaint No.NACT-1189-2018 dated 26.10.2018 titled as M/s IAG Automation Pvt. Ltd. Vs. M/s Crystal Chemicals & Engineers etc. with further prayer of quashing the FIR registered pursuant to proclamation order i.e. FIR No.399 dated 08.09.2022, under Section 174-A of IPC, registered at Police Station Sector-7, Panchkula.

As per the facts of the case, petitioner was prosecuted by the respondent by way of filing the complaint under Section 138 of the Negotiable Instruments Act. After filing of the same, petitioner was summoned by learned trial Court vide order dated 14.11.2018. Thereafter, when the case was fixed for the presence of the petitioner on 11.07.2022, he remained absent and was declared proclaimed person by learned trial Court and the FIR under Section 174-A IPC was also directed to be registered

against the petitioner. Aggrieved by the said order, petitioner has approached this Court praying for quashing of said order.

It has been contended by learned counsel for the petitioner that learned trial Court has miserably failed in appreciating the facts and circumstances of the case and the law settled and thus, has illegally declared the petitioner as a proclaimed person. He submits that the petitioner was not aware about the pendency of the petition and he came to know about the same when he was arrested from his home at Mullanpur on 17.11.2022. He was produced before the Chief Judicial Magistrate, Panchkula on 18.11.2022 and was granted regular bail vide order dated 18.11.2022. Thereafter the petitioner came to know about the legal notice having been issued to him on 12.09.2018 and filing of the complaint dated 26.10.2019. He submits that petitioner was working as a Clerk in the Employer Company and he had no concern with the allegations made in the complaint. He submits that the petitioner is residing in Panchkula from the last more than 10 years. However, the summons had been issued to him at his address in Rajasthan. It is submitted that petitioner never received any notice or summons regarding his appearance before the learned Court at Panchkula. He has submitted that as there was no service effected on him, thus, proclamation issued Section 82/83 Cr.P.C was totally against the provisions of law. It is submitted that the impugned FIR registered subsequent to the the petitioner having been declared Proclaimed Person is also unsustainable in the eyes of law. He submits that petitioner was arrested and he has already been granted bail by learned trial Court vide order dated 18.11.2022. He submits that it is evident that bail has been granted to the petitioner on 18.11.2022 whereas he was declared proclaimed person by the same Court on 11.07.2022. Thus, the petitioner has been granted bail by the trial Court after about 04 months of

his having been declared proclaimed person. He further submits that *dehors* the merits of the case, petitioner is already facing the trial and would keep on appearing before the learned trial Court. He submits that in the peculiar facts and circumstances of the case, the impugned order dated 11.07.2022 deserves to be quashed.

On the other hand, learned State counsel has stated that the order dated 11.07.2022 declaring the petitioner as proclaimed person was rightly passed by the Court as the petitioner had failed to appear before the Court concerned on the date fixed.

Heard. After hearing counsel for the petitioner and perusing the record, this Court do not find it necessary at this stage to issue notice to respondent No.2 as resorting to that process will result in wastage of time of the parties. It is evident from the record that the petitioner was arrested by the police and he has already been granted regular bail by the trial Court vide order dated 18.11.2022. Thus, the default stood condoned. Further, it is also fairly submitted before this Court that petitioner is residing in Panchkula for the last more than 10 years whereas notice was issued mentioning his address of Rajasthan and as such he remained unaware about the proceedings in the complaint. The Court cannot ignore the fact that the complaint had been filed in the year 2018 and the same is pending adjudication till date. Proceedings under the Negotiable Instruments Act are summary in nature and thus, absence of the petitioner had resulted in delaying the proceedings. To meet the ends of justice, this Court allows this petition by directing the petitioner to pay cost of Rs.20,000/- to the complainant-respondent. A coordinate Bench of this Court in **Raj Kumar Vs. State of Haryana passed in CRM-M-5895-2012 decided on 13.09.2012**

has held that when the petitioner appeared before the trial Court and was

granted bail, the continuation of criminal proceedings against him under Section 174-A IPC would be nothing but an abuse of the process of the court. Similar view has been taken by this Court in Vikas Sharma Vs. Gurpreet Singh Kohli passed in CRM-M-32465-2017 decided on 13.09.2017.

In view of the above, order dated 11.07.2022 passed by learned Judicial Magistrate Ist Class, Panchkula vide which the petitioner was declared Proclaimed Person in Complaint No.NACT-1189-2018 dated 26.10.2018 titled as M/s IAG Automation Pvt. Ltd. Vs. M/s Crystal Chemicals & Engineers etc. and a direction was issued for registration of FIR under Section 174-A IPC against the petitioner is quashed. Consequently, FIR No.399 dated 08.09.2022, under Section 174-A of IPC, registered at Police Station Sector-7, Panchkula also stands quashed subject to cost of Rs.20,000/- to be paid to the complainant/respondent. The petitioner is directed to appear before the trial Court within 15 days and deposit Rs.20,000/- costs in the Court which will be paid to the complainant by the Court concerned on his appearance.

Petitioner is already appearing before the trial Court. In case the petitioner fails to comply with above direction, this order would be of no avail to him and the order dated 11.07.2022 passed by learned Judicial Magistrate Ist Class, Panchkula , would come in force automatically.

Disposed of.

(RAJESH BHARDWAJ)
JUDGE

24.04.2023
m. sharma

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