

115 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-22167-2023 (O&M)

Date of decision: 11.05.2023

HARNEK SINGH

...Petitioner

V/s

RAJ KUMAR

...Respondents

CORUM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Kushager Goyal, Advocate
for the applicant/petitioner.

DEEPAK MANCHANDA J.

CRM-21351-2023

This is an application under Section 482 of Cr.P.C. seeking placing on record Annexure P-7 i.e. all the zimni orders in complaint bearing No. 220 of 2018 titled as *Raj Kumar Vs. Harnek Singh* as well as exemption from filing the certified copy of the same.

Allowed as prayed for.

Annexure P-7 is taken on record.

Application stands disposed of.

CRM-M-22167-2023

The petitioner has preferred this petition under Section 482 of the Code of Criminal Procedure for quashing of complaint No. COMA/220/2018 dated 21/22.02.2018 (Annexure P-1) filed by respondent under Section 138 of Negotiable Instruments Act pending in the Court of JMIC, Sonipat alongwith summoning order dated 22.02.2018 (Annexure P-2) and all subsequent proceedings arising therefrom including order dated 16.02.2023 (Annexure P-3), whereby the petitioner was declared as proclaimed person.

Learned counsel for the petitioner, after arguing for some time,

confines himself to the limited prayer for quashing the order dated 16.02.2023

(Annexure P-3) whereby the petitioner was declared as proclaimed person. He further contends that the mandatory period of 30 days was not provided to the petitioner which is prescribed under Section 82 of Cr.P.C. as initially the proclamation was issued vide order dated 01.12.2022 for 16.12.2022, but on 16.12.2022 no report was received back from the concerned person. Thereafter, trial Court again issued proclamation vide order dated 16.12.2022 for 16.01.2023 and on 20.12.2022, the proclamation was published and thereafter on 16.01.2023 the statement of concerned person was recorded but the mandatory period of 30 days has not elapsed and case was adjourned for 16.02.2023 for completing the period of 30 days. Learned counsel further submits that petitioner is ready and willing to settle the account with the complainant and has annexed the copy of draft of Rs. 1,25,000/-(Annexure P-6) to show his bona fide. He further submits that the petitioner is also ready and willing to join the trial proceedings.

A perusal of the order dated 16.02.2023 (Annexure P-3) reflects that the trial Court proceeded to declare the petitioner as proclaimed person for the solitary reason of absence of the petitioner. The said order reflects that even necessary directions for registration of FIR against the petitioner under Section 174-A of the Indian Penal Code were also issued.

The objective of Section 82 of the Code is to secure the presence of the accused. Once the accused is willing to appear and join trial proceedings, the objective has been achieved.

Consequently, the instant petition stands allowed and impugned order dated 16.02.2023 is set aside. However, arrest of the petitioner is stayed

for a period of two weeks only enabling him to put in appearance before the

trial Court to face trial. Petitioner is directed to surrender before the trial Court on or before 25.05.2023 and on his doing so, he shall be admitted to bail subject to his furnishing personal bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate.

It is made clear that if the petitioner does not present himself before the trial Court within the stipulated time, interim protection granted to him will be deemed to have been automatically vacated.

(DEEPAK MANCHANDA)
JUDGE

11.05.2023
Ajay Goswami

Whether speaking/reasoned	Yes
Whether reportable	Yes/No