

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-44338 of 2018
Reserved on: 04.12.2023
Pronounced on: 08.12.2023

Rajeev Anand
Vs.
State of Haryana

.....Petitioner

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Jasraj Singh, Advocate for the petitioner.
Mr. Randhir Singh, Addl. AG, Haryana.

DEEPAK GUPTA, J. (Oral)

By way of present petition filed under Section 482 Cr.P.C., petitioner has prayed for quashing FIR No.632 dated 19.09.2018 registered at Police Station Shivaji Nagar, District Gurugram for the offence under punishable under Section 174-A IPC arising out of FIR out of order dated 13.11.2017 (Annexure P.2), whereby the petitioner was proclaimed person in criminal complaint Case No.8140 of 2016 tilted “Rajiv Nayyar Vs. Winaxx Implex Pvt. Ltd and others” filed under Section 138 of the Negotiable Instruments Act.

2. It is contended by learned counsel that petitioner was declared proclaimed person during proceedings of Criminal Complaint Case No.8140 of 2016 tilted “Rajiv Nayyar Vs. Winaxx Implex Pvt. Ltd and others” filed under Section 138 of the Negotiable Instruments Act vide order dated 13.11.2017 passed by the learned Judicial Magistrate Ist Class. It is pointed out that summoning order in the said complaint was passed on 26.07.2016, copy of which is Annexure P.3; whereas petitioner was declared proclaimed person on 13.11.2017 vide Annexure P.2. It is contended that even prior to the passing of the summoning order, petitioner had already been arrested on 12.07.2016 by Delhi Police and lodged in Tihar Jail in another case bearing

FIR No.130 dated 30.09.2015 registered at Police Station EOW, Delhi and was released in that Delhi Case on 25.07.2018 as per Annexure P.5. Learned counsel contends that respondent- complainant knew very well about the fact that the petitioner was in custody in another case but concealed said fact from the Court concerned.

3. The afore-said factual position could not be refuted by learned State Counsel, which in fact is based upon the documents. Summoning order in the Criminal Complaint Case No.8140 of 2016 filed by Rajiv Nayyar under Section 138 of the NI Act, was passed on 26.07.2016, whereas petitioner was declared proclaimed person on 13.09.2017. Annexure P.7 is the copy of the report submitted by Superintendent, Central Jail, Tihar, New Delhi revealing that petitioner – Rajeev was admitted in the said Jail on 18.07.2016 in case FIR No.130 dated 30.09.2015 registered at Police Station EOW, Delhi under various provisions of IPC i.e., prior to the summoning order, and was released on bail on 25.07.2018 from the Delhi case, as apparent from Annexure P.5.

4. In view of the afore-said facts and circumstances, order dated 13.11.2017, whereby petitioner was declared proclaimed person; the consequent FIR No.632 dated 19.09.2018 registered at Police Station Shivaji Nagar, District Gurugram and all the subsequent proceedings arising therefrom, cannot be maintained and are liable to be quashed. Ordered accordingly.

December 08, 2023
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(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No