

S. No.259

2023:PHHC:163259

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

CRM-M-20761 of 2019

Date of Decision:19.12.2023

Manisha Rani

.....Petitioner

Vs.

Jagdev Singh and another

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Kanwaljeet Singh, Advocate for the petitioner.
Mr. Harshit Jain, Advocate for respondent No.1.
Mr. Har Kanwar Jeet Singh, AAG, Punjab.

DEEPAK GUPTA, J. (Oral)

By way of present petition filed under Section 482 Cr.P.C., petitioner prays for quashing the impugned order dated 04.04.2019 (Annexure P.4) passed by learned Judicial Magistrate Ist Class, Dhuri whereby petitioner was declared proclaimed person in Criminal Complaint No.56 (Annexure P.1) titled "Jagdev Singh Vs. Manisha Rani".

Perusal of the paper book reveals that petitioner was summoned to face trial under Section 138 of the Negotiable Instruments Act. She appeared on 13.08.2018 and was allowed bail. Later on, she absented on 20.10.2018 and so, her bail was canceled. Warrants of arrest and then proclamation was issued against her to procure her presence, but due to her non-appearance, she was declared proclaimed person. However, as rightly pointed out by learned counsel for the petitioner that as per order dated 08.02.2019, proclaimed was directed to be issued for 06.03.2019. As per order dated 06.03.2019, proclamation was received back duly effected on 03.03.2019. Since the period of 30 days had not elapsed by that time, so matter was adjourned to 04.04.2019 for appearance of the accused-petitioner and then it is on 04.04.2019, petitioner was declared proclaimed person.

Learned counsel for the petitioner is right in contending that there was no

proclamation for 04.04.2019 when the petitioner was declared proclaimed person; whereas period of 30 days had not elapsed on 06.03.2019 for which date, proclamation had been earlier issued. In these circumstances, impugned order dated 04.04.2019 passed by the trial Court cannot be sustained in the eyes of law and so, the said order is hereby quashed.

At the same time, this Court notices that petitioner breached the conditions of bail as she had been earlier allowed bail by the trial Court concerned.

In the afore-said circumstances, this petition is hereby disposed of with direction to the petitioner to surrender before the trial Court on or before 15.01.2024 positively. On her such surrender, the trial Court will initiate the proceedings under Section 446 Cr.P.C. Upon disposal of such proceedings, the petitioner shall be admitted to fresh bail. It is made clear that till the disposal of those proceedings under Section 446 Cr.P.C., petitioner shall not be taken into custody.

December 19, 2023
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(DEEPAK GUPTA)
JUDGE

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