

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

279

CRM-M-45620-2016(O&M)

Date of decision: 14.09.2023

Rajiv Kumar

....Petitioner

Versus

Bank of India and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Rajesh Gupta, Advocate for the petitioner

Mr. Dhruv Sihag, AAG Haryana

AMAN CHAUDHARY. J.

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of orders dated 27.07.2016, 12.08.2016, 05.09.2016, 21.09.2016 and 10.10.2016 vide which petitioner has been summoned through alternative mode of service i.e. bailable/non-bailable warrant and proclamation under Section 82 Cr.P.C. and order dated 18.11.2016 vide which the petitioner has been declared proclaimed person and an FIR under Section 174-A IPC has been ordered to be registered against the petitioner.

2. Learned counsel contends that the petitioner was not served in the complaint instituted under Section 138 NI Act, wherein summoning order was passed on 29.10.2014, Annexure P-1, for want of correct address. Further, till 27.07.2016, summons could not be issued since correct address was not filed by the complainant-Bank. Thereafter, proclamation proceedings were initiated

against the petitioner and he was declared a proclaimed person vide order dated 18.11.2016, Annexure P-20 and direction was also issued to register FIR under Section 174A IPC. The petitioner immediately surrendered before the trial Court and was released on bail vide order dated 05.12.2016. The complaint in question was withdrawn on the statement of the complainant vide order dated 13.12.2017. Thereafter, he preferred an anticipatory bail application before the trial Court, apprehending his arrest in the FIR to be registered under Section 174A IPC in terms of the aforesaid order, which though was dismissed vide order dated 02.01.2017 with a direction to SHO concerned that in case an FIR is registered and arrest of the petitioner is required, he be given 3 days prior notice to enable him to seek a remedy in accordance with law.

3. Learned State counsel affirms the factum of the petitioner having surrendered before the trial Court and admitted to bail.

4. Heard.

5. It is apposite to refer to the order dated 13.12.2017, passed by the trial Court, whereby the complaint in question itself was ordered to be withdrawn, which reads thus:

“Today, the complainant made a statement that he does not want to pursue the present complaint and withdraws the same. Heard. Keeping in view of this statement, the complainant is permitted to withdraw his complaint and the present complaint is dismissed as withdrawn. The accused is hereby acquitted from the allegations levelled against him. His bail bond and surety bond also stands discharged. File be consigned to the record room after due compliance”

6. The very purpose of initiation of proclamation proceedings, is to compel and secure the presence of the accused to face trial and establish the rule

of law, as also to ensure finalization of the proceedings.

7. Adverting to the facts of the present case, it having dawned upon the petitioner to join the proceedings; the Court extending him the concession of regular bail vide order dated 05.12.2016, also directing grant of 3 days prior notice in the FIR to be registered under Section 174A IPC, the said FIR having not been registered till date and the complaint filed under Section 138 of NI Act, the proceedings wherefrom the aforesaid had arisen, itself being withdrawn, can all be factored to conclude that the very purpose of initiation of proclamation proceedings, that is to compel and secure the presence of the accused to face trial and establish the rule of law so as to ensure finalization of the proceedings pending between the parties, stands nonetheless achieved. In wake of the above, to make the ends of justice meet and finding judgments referred to above being applicable to the instant case, the present petition deserves to be and is accordingly, allowed.

8. As a sequel, impugned orders dated 27.07.2016, 12.08.2016, 05.09.2016, 21.09.2016, 10.10.2016 and 18.11.2016 passed by the Judicial Magistrate 1st Class, Ambala are hereby set aside.

September 14, 2023
M.Kamra.

(AMAN CHAUDHARY)
JUDGE

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