

132 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

Neutral Citation No. 2023:PHHC:080405  
CRM-M-26777-2023 (O&M)  
Date of Decision: June 01, 2023

Manish Kumar Agarwal

...Petitioner

Versus

State of Haryana and another

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. C.S. Pasricha, Advocate for the petitioner.

DEEPAK GUPTA, J.(Oral)

CRM-24959-2023

This is an application under Section 482 Cr.P.C. to place on record zimni orders passed by the Trial Court in the complaint case bearing NACT No.6589/2018 as Annexure P-9 and to exempt the petitioner from filing the true typed copies thereof.

Allowed.

Annexure P-9 is taken on record.

CRM-M-26777-2023 (O&M)

By way of this petition filed under Section 482 Cr.P.C., petitioner has prayed for quashing of FIR No.0999, dated 12.04.2023, registered at Police Station Shivaji Nagar, District Gurugram, under Section 174-A IPC along with all the consequential proceedings.

2. Drawing attention towards various zimni orders (Annexure P-9) passed by learned Trial Court, it is pointed out by learned counsel for the petitioner that summoning order was passed on 04.04.2018 and the accused-petitioner was directed to be summoned for 01.06.2018. Notice was not received for 01.06.2018. On 06.06.2018, it was noticed that notice sent through registered post had not received back either

served or unserved but due to lapse of 30 days, service of the accused-petitioner was presumed and so bailable warrants against him were directed to be issued. Learned counsel then drawn attention towards the order dated 16.11.2018, as per which bailable warrants were received back un-executed and complainant was asked to file alternate address of the accused-petitioner. The subsequent orders reveal that bailable warrants were never served upon the petitioner and the matter was adjourned from time to time due to the corona period. Matter was listed for effective hearing on 17.12.2022 and fresh bailable warrants were issued for 21.01.2023, which remained un-served. Learned Trial Court then ordered issuing the warrants of arrest on 21.01.2023 for 01.02.2023, which again were received back un-executed and so, proclamation was issued under Section 82 Cr.P.C. and based thereon, petitioner was declared proclaimed person vide order dated 27.03.2023 (Annexure P-6). On the direction of the Court, the FIR in question was registered against the petitioner.

3. Learned counsel also contends that as soon as the petitioner-accused came to know about the fact that he was declared as proclaimed person and that FIR in question has been registered against him, he approached the complainant and the matter was compromised amongst the parties. Complainant appeared before the Court and made a statement so as to withdraw the complaint. Based on that statement, the complaint itself was dismissed as withdrawn on 19.05.2023. The copy of order of learned Trial Court in this regard is Annexure P-4.

4. Notice of motion.

5. Mr. Parveen Kumar Aggarwal, DAG, Haryana accepts notice on behalf of respondent No.1-State. Memo of appearance has been filed on behalf of respondent No.2-complainant by Mr. Bharat Chadha, Advocate.

6. Learned counsel appearing for the respondent-complainant does not dispute the factual position as has been contended by learned counsel for the petitioner, which otherwise is based upon the documents placed on record.

7. However, learned State counsel submits that compromise has been effected between two private parties, whereas declaring the petitioner as proclaimed person on account of his non-appearance is a matter between the petitioner and the State.

8. I have considered submissions of both the sides.

9. Though, I agree with learned State counsel that simply because of the compromising of the matter between two private parties in respect of the allegations made in the complaint under Section 138 of the Negotiable Instruments Act, 1881, should not be a ground to quash the FIR under Section 174-A IPC, but at the same time, this Court notices that petitioner was never served even once before being declared as proclaimed person. In fact, the record reveals that neither any summons nor any warrants had ever been executed upon the petitioner.

10. In view of the above circumstances, added with the fact that matter has since been compromised and complaint has been withdrawn, it will not be in the interest of justice to continue with the proceedings. As such, FIR No.0999 dated 12.04.2023, registered at Police Station Shivaji

Nagar, District Gurugram, under Section 174-A IPC along with all the consequential proceedings, are hereby quashed.

All the connected applications also stand disposed of.

June 01, 2023  
sarita

(DEEPAK GUPTA)  
JUDGE

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