

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

132 CRM-M-29769-2023 (O&M)
Date of Decision.:21.08.2023

Lalit Vinayakrao PaunikarPetitioner
Vs.
State of Haryana and AnotherRespondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Shikhar Kataria, Advocate with
Mr. Ashutosh Dhankar, Advocate
for the petitioner.

Mr. Randhir Singh, Addl. AG, Haryana.

DEEPAK GUPTA, J. (ORAL)

CRM-34450-2023:

This is an application under Section 482 Cr.P.C. for placing on record copy of zimni orders (Annexure P-16). Said application is moved so as to comply the order dated 17.07.2023 passed by this Court.

- 2. Allowed.
- 3. Annexure P-16 is taken on record.

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- 4. Prayer in this petition filed under Section 482 Cr.P.C. is for quashing of F.I.R. No.607 dated 28.02.2020 registered under Section 174-A of the IPC registered at Police Station Shivaji Nagar, District Gurugram and all subsequent proceedings arising therefrom.
- 5. It is contended by learned counsel that petitioner had procured a

loan from respondent No.2 as per sanction letter dated 30.03.2015. As he failed to fulfill financial obligations, respondent declared the petitioner's account as non-performing asset. Respondent No.2 initiated SARFAESI proceedings against the petitioner and ultimately the secured assets were put to auction. In the meantime, respondent No.2 filed different complaints under Section 25 of the Payment and Settlement Systems Act, 2007 as per details given in para No.4 of the petition, wherein the petitioner was summoned and he was unable to appear due to poor health, he was declared proclaimed person. Consequent thereto, present FIR was registered against him.

6. Learned counsel submits that subsequently on account of successful auction of the secured asset by the respondent- bank, the said bank recovered all the outstanding dues and so, all the complaints filed under the provisions of Payment and Settlement Systems Act, 2007 were dismissed as withdrawn. Learned counsel submits that in these circumstances present FIR be quashed as the complaints in which he was declared proclaimed person have already been dismissed as withdrawn.

7. Petitioner was directed to place on record copies of orders right from the stage of summoning till he was declared as proclaimed person. In compliance of the aforesaid order petitioner placed on record Annexure P-16 which is a bunch of various zimni orders passed by the Trial Court. Perusal of all these orders would reveal that petitioner was not served even once either by way of summons or by way of bailable warrants or by way of warrants of arrest. It is revealed that Trial Court directed issuance of

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proclamation under Section 82 Cr.P.C. vide order dated 02.11.2019 and after the issuance of proclamation, petitioner was declared proclaimed person on 21.12.2019. However, as is rightly pointed by learned counsel that learned Trial Court did not refer about the report of the executing constable as to whether the petitioner was even residing at the given address. Besides, there is no reference of the statement of the executing constable in order to show as to whether the proclamation had been effected as per the procedure prescribed under Section 82 Cr.P.C.

8. Having regard to the fact that proper procedure, before declaring the petitioner as proclaimed person has not been followed and also considering the fact that the complaints in which petitioner was declared proclaimed person have already been dismissed as withdrawn pursuant to the compromise, the present F.I.R. No.607 dated 28.02.2020 registered under Section 174-A of the IPC at Police Station Shivaji Nagar, District Gurugram and all the subsequent proceedings arising therefrom are hereby quashed qua the petitioner.

August 21, 2023
Neetika Tuteja

(DEEPAK GUPTA)
JUDGE

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