

S. No.117

2023:PHHC:148244

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

CRM-M-29752 of 2023 (O&M)

Date of Decision:21.11.2023

Shraddha Lalit Paunikar

.....Petitioner

Vs.

State of Haryana and another

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

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

DEEPAK GUPTA, J. (Oral)

CRM-48880-2023

This is an application under Section 482 Cr.P.C. for placing on record copy of zimni orders and order of this Court dated 21.08.2023 as Annexure P.9 and Annexure P.10 respectively. Said application is moved so as to comply the order dated 13.10.2023 passed by this Court.

2. Allowed.

3. Annexure P-9 and Annexure P.10 are 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.1386 dated 25.07.2019 registered at Police Station Shivaji Nagar, District Gurugram under Section 174-A IPC and all subsequent proceedings arising therefrom.

5. It is contended by learned counsel that petitioner's husband had procured a loan from respondent No.2 as per sanction letter dated 30.03.2015. The present petitioner is co-applicant in the said loan. 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and so, all the complaints filed under the provisions of Payment and Settlement Systems Act, 2007 were dismissed as withdrawn.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present FIR be quashed as the complaints in which he was declared proclaimed person have already been dismissed as withdrawn.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-9 and P-10. Annexure P.9 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 proclamation under Section 82 Cr.P.C. vide order dated 26.04.2019 and after the issuance of proclamation, petitioner was declared proclaimed person on 16.07.2019.

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.1386 dated 25.07.2019 registered at Police Station Shivaji Nagar, District Gurugram under Section 174-A IPC and all subsequent proceedings arising therefrom are hereby quashed qua the petitioner.

Allowed.

November 21, 2023

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Whether Speaking/reasoned
Whether Reportable

Yes/No
Yes/No

(DEEPAK GUPTA)
JUDGE