

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

CRM-M-27500-2019

Date of Decision: 22.02.2023

Arjun Singh and others

..... Petitioners

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. R.S.Randhawa, Advocate, for the petitioners.

Mr. Kirpal Singh Thakur, Asstt. Advocate General, Haryana.

Rajesh Bhardwaj, J.

Prayer in the present petition is for setting aside the order dated 28.05.2019 passed by learned Judicial Magistrate Ist Class, Faridabad in NACT 5093/2017, dated 23.10.2017, whereby, the petitioners have been declared as proclaimed persons in a complaint filed under Section 138 of Negotiable Instruments Act, including the FIR No.245 dated 14.06.2019, registered under Section 174-A IPC, at Police Station Sector-31, Faridabad alongwith all the consequent proceedings arising therefrom.

Learned counsel for the petitioners has submitted that the petitioners are residents of Bihar and they were never aware about the proceedings pending against them. He submits that immediately after coming to know about the proceedings pending against them, they approached this Court. He submits that even otherwise, the dispute was regarding dishonouring of cheque of Rs.7 lacs, out of which Rs.4 lacs petitioners have already paid and in pursuance to the order of this Court dated 01.07.2019, Rs.3 lacs has already been deposited with the Registry of this Court and they are ready to pay some more amount towards interest to the complainant. He has submitted that the petitioners have been declared proclaimed persons in violation of statutory provisions of Sections 82 and

83 Cr.P.C. and the prosecution of the petitioners in the FIR is totally an abuse of the process of the Court once the dispute has already been resolved by the parties. He submits that the petitioners are ready to join the proceedings. He has further stated that the present FIR in question is the result of order dated 28.05.2019 vide which the petitioners were declared proclaimed persons by the learned JMIC, Faridabad and as such said order as well as the FIR in question are liable to be quashed.

Learned State counsel has opposed the submissions made by learned counsel for the petitioners and has stated that the trial Court has rightly declared the petitioners as proclaimed person on 28.05.2019, who remained absent without any reason. The FIR in question should not be quashed.

After hearing learned counsel for the parties, this Court is of the view that the present petition can be disposed of today itself. The petitioners have already paid Rs.4 lacs to the complainant and have deposited another sum of Rs.3 lacs with the Registry of this Court and are also ready to pay another amount towards interest as has been submitted by their counsel. The petitioners are ready to join the proceedings and no useful purpose will be served by sending them behind the bars. So keeping in view the abovesaid contentions, the order dated 28.05.2019 is set aside subject to payment of Rs.25,000/- as costs to be deposited with the Poor Patients' Welfare Fund, PGIMER, Chandigarh by the petitioners within 10 days from today.

The continuation of the FIR in question which is the consequential step of order dated 28.05.2019 declaring the petitioners as proclaimed persons would serve no purpose, rather it would be in the fitness of things, if the petitioners are directed to join the proceedings before the

trial Court. Consequently, the present petition is disposed of and FIR No.245 dated 14.06.2019, registered under Section 174-A IPC, at Police Station Sector-31, Faridabad is quashed qua the petitioners.

The petitioners would appear before the trial Court concerned within a period of 15 days from today and the trial Court would proceed with the trial in accordance with law. The amount of Rs.3 lacs lying deposited before this Court be immediately released to the complainant against proper receipt.

Needless to say that in case the petitioners fail to comply with the abovesaid direction, they will have no benefit of abovesaid protection granted by this Court.

A copy of this order be sent to the complainant forthwith.

22.02.2023			(RAJESH BHARDWAJ)
sharmila			JUDGE
	Whether Speaking/Reasoned	:	Yes/No
	Whether Reportable	:	Yes/No