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

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Date of decision: July 24, 2023

Satayawan

....Petitioner

versus

State of Haryana and another

....Respondents

**CORAM: HON'BLE MR. JUSTICE ARUN MONGA****Present:-** Mr. Mukesh Yadav, Advocate for petitioner.

Ms. SvaneelJaswal, Additional AG Haryana.

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**ARUN MONGA, J. (ORAL)**

Present petition has been filed for seeking quashing of impugned order dated 18.05.2023 (Annexure P-3) passed by learned Judicial Magistrate First Class, Narnaul in criminal complaint case bearing No.NACT/677/2020 filed under Section 138 of the Negotiable Instruments Act, 1881 (for short 'NI Act') titled "Lal Chand versus Satayawan" whereby petitioner has been declared proclaimed person, along with all consequential proceedings initiated thereon.

2. Learned counsel for the petitioner submits that respondent No.2/complainant alleges that petitioner had taken a loan of Rs.10,00,000/- from him, with a promise to pay the same along with interest @ 2% per month. However, petitioner denies any such loan. He further submits that petitioner never received any court summons/ notice. Vide impugned order dated 18.05.2023 (Annexure P-3), petitioner was declared as proclaimed person and a case under Section 174-A of IPC was directed to be registered against him. He further contends that petitioner did not deliberately avoid service of court summons/notice, but the same was not effected as the petitioner is not residing permanently in the village. Petitioner is ready to join proceedings before learned trial Court.

2.1. Learned counsel for petitioner further submits that even otherwise, offence in question is bailable one and it is settled law that even if an accused is declared proclaimed person in a bailable offence, the nature of the offence does not change.

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Further, no prejudice would be caused to the respondents if the petitioner is allowed to join the trial and impugned order is quashed along with all consequential proceedings.

3. On advance service, learned State counsel appears and opposes the petition and submits that the order declaring petitioner as a proclaimed person has rightly been passed. She further submits that offence under Section 174A IPC is independent of the main case.

4. Heard.

5. It emanates from the pleaded case herein that as per zimni orders, bailable warrants were issued against the petitioner and same were served on his father, who is residing separately. Based on said service report *qua* his father, vide order dated 18.05.2023, petitioner was declared proclaimed person by learned trial Court and concerned police station was directed to register a case under Section 174-A of IPC. It is also pleaded that respondent was well aware about the residence address of the petitioner and also that petitioner is not residing in the village. However, he did not intentionally mention the correct address just to ensure declaration of petitioner as proclaimed person. Petitioner moved an anticipatory bail petition which was dismissed by learned Court below vide order dated 11.07.2023.

8. Very purpose of declaring a person proclaimed offender and initiating proceedings under Section 174-A IPC is to secure his presence in the trial. Avoidance of service is stated to be not intentional but caused owing to petitioner not being the permanent resident at the given address. Since he is ready and willing to join trial proceedings, I am of the view that order declaring petitioner a proclaimed person deserves to be set aside.

9. In the totality of circumstances, petitioner is directed to appear before the learned Court below within a period of 4 weeks from today. On causing appearance, petitioner shall be admitted to bail subject to bail/ surety bonds to be furnished to the satisfaction of the Court below. Since petitioner has been permitted to appear before the Court, very purpose of declaring him proclaimed person stands achieved as proceedings were initiated to ensure his presence before learned trial Court.

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10. In view of aforesaid, I see no grounds as to why further proceedings should continue as same would be an exercise in futility and wastage of precious time of learned Court below.

11. Petition is accordingly disposed of. Impugned order dated 18.05.2023 (Annexure P-3) passed by learned JMIC, Narnaul in criminal complaint case bearing No.NACT/677/2020 filed under Section 138 of NI Act titled “Lal Chand versus Satayawan” along with all consequential proceedings initiated thereon, is set aside. Needless to say in case petitioner does not appear, as aforesaid, learned Court below shall be at liberty to revive proceedings to secure his presence.

12. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)  
JUDGE

July 24, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No