

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

CRM-M-36222-2023 (O&M)
Date of Decision: 30.10.2023

RAM KUMAR SINGH

. . . . Petitioner

Vs.

STATE OF HARYANA AND ANOTHER

. . . . Respondents

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Deepanshu Matya, Advocate, for the petitioner.

DEEPAK GUPTA, J.

CRM-45561-2023

This is an application under Section 482 CrPC to place on record some of the daily orders passed by the trial Court along with the proclamation notice and the report thereon as Annexures P7 and P8, respectively.

Application is allowed. Annexures P7 and P8, are taken on record.

CRM-M-36222-2023

Notice of motion.

2. Mr. Randhir Singh, Addl. A.G., Haryana, accepts notice on behalf of the respondent/State.

3. Prayer in this petition filed under Section 482 CrPC is to quash order dated 01.08.2022 (Annexure P2) passed by Id. JMIC, Gurugram, whereby petitioner was declared proclaimed person in complaint case bearing No. NACT/13164/2017 titled 'India Infoline Vs. M/s RSR Housing

& Construction Pvt. Limited’ and consequent thereto, FIR No.1261 dated 21.08.2022 (Annexure P3) was registered at Police Station Shivaji Nagar, District Gurugram under Section 174A IPC. Petitioner prays for quashing of the said FIR also along with all the subsequent proceedings.

4. It is contended by ld. counsel that after the process was issued by the trial Court concerned, petitioner was never served. It is further the contention that even the proclamation under Section 82 CrPC was not effected in accordance with law; that as per report received on the proclamation notice, petitioner was not even residing at the given address. Still further, it is contended that as soon as petitioner came to know about his declaration as proclaimed person, he approached the trial Court concerned and the matter was compromised amongst the parties and complainant withdrew the complaint in Daily Lok Adalat on 26.08.2022 as per order of the even date Annexure P4.

5. Ld. State counsel has opposed the petition by submitting that compromising the matter in the private complaint is a matter between the private parties, but once the petitioner has been declared as proclaimed person, it becomes the matter between the petitioner and the State and only on account of compromise, FIR under Section 174A IPC should not be quashed.

6. Heard.

7. I agree with the contention of ld. State counsel to the extent that mere compromising of the complaint amongst two private parties, should not be a ground to quash the FIR under Section 174A IPC registered on account of the accused having been declared as proclaimed person

during the proceedings of the private complaint. However, it will depend on facts and circumstances of each case as to whether the said accused (petitioner in this case) was declared proclaimed person in accordance with law or not.

8. In this case, perusal of the paper book would reveal that process against the accused-petitioner was issued by Id. JMIC, Gurugram vide order dated 02.11.2017 (Annexure P7). Subsequent orders reveal that service of the petitioner was presumed on account of the fact that postal envelope containing the notice was not received back despite expiry of 30 days. Thereafter, bailable warrants and then warrants of arrest were issued but every time the same were received back as unexecuted. It is revealed further that vide order dated 12.02.2020, proclamation under Section 82 CrPC was issued after complainant made a statement that fresh address of the petitioner was not available. Then, the proclamation under Section 82 CrPC was issued at the old address of the petitioner. As per the report of the concerned police official, the given address was found to be locked. A copy of the notice was pasted at the given address, another at the conspicuous place and another outside the Court. Report does not reveal that the proclamation was publically read in some conspicuous place of the town, in which the petitioner ordinarily used to reside, which is one of the mandatory requirements of Section 82(2) CrPC. Apart from this non-compliance, it is evident from the various reports that despite the fact that petitioner was not residing at the given address, complainant had failed to provide the correct address of the petitioner-accused.

9. Having regard to all the aforesaid circumstances, the impugned order dated 01.08.2022, whereby petitioner was declared proclaimed person and subsequent FIR bearing No.1261 dated 21.08.2022 registered at Police Station Shivaji Nagar, District Gurgaon, under Section 174A IPC, cannot be sustained. The impugned order as well as subsequent FIR and all the consequent proceedings stand quashed.

Disposed of accordingly.

30.10.2023

Vivek

(DEEPAK GUPTA)
JUDGE

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes
Yes/No