

128 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Neutral Citation No. 2023:PHHC:121338
CRM-M-38792-2023
Date of Decision: September 14, 2023

Rahul Dureja

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Kunwar Rajan, Advocate for the petitioner.

DEEPAK GUPTA, J.(Oral)

Prayer in this petition filed under Section 482 Cr.P.C. is to quash FIR No.124, dated 20.10.2018, under Section 174-A IPC, registered at Police Station Sadar, Malout, District Sri Muktsar Sahib as well as the subsequent proceedings arising therefrom on the ground that complaint under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred as 'the N.I. Act'), stands compromised amongst the parties.

At the outset, this Court may make it clear that simply because the complaint under Section 138 of the N.I. Act has been compromised between the parties, wherein the petitioner had been declared as proclaimed person, cannot in itself be a ground to quash the FIR under Section 174-A IPC.

However, learned counsel for the petitioner has rightly drawn attention of this Court to contend that compliance of Section 82 Cr.P.C. was not made in letter and spirit. As per the order dated 01.05.2018, the proclamation under Section 82 Cr.P.C. was issued for 09.07.2018 as is evident from copy of Annexure P-10. The statement of the Executing police official was recorded on 09.07.2018 revealing that he had effected the proclamation on 29.06.2018.

Learned counsel for the petitioner rightly contends that a period of 30 days had not elapsed on 09.07.2018, for which date the proclamation had been issued. Instead of issuing fresh proclamation, the Court simply adjourned the matter for 09.08.2018 and then declared the petitioner as proclaimed person on 09.08.2018, despite the fact that no proclamation had been issued for 09.08.2018. Thus, the mandatory provisions of Section 82 Cr.P.C. have been clearly violated. Consequent thereto, present petition is allowed.

As such, FIR No.124, dated 20.10.2018, under Section 174-A IPC, registered at Police Station Sadar, Malout, District Sri Muktsar Sahib as well as the subsequent proceedings arising therefrom, are hereby quashed.

September 14, 2023

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(DEEPAK GUPTA)
JUDGE

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No