

S. No.128

2023:PHHC:121362

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

CRM-M-38798 of 2023

Date of Decision:14.09.2023

Rahul Dureja

.....Petitioner

Vs.

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.184 dated 06.12.2017 registered under Section 174-A IPC at Police Station Kabarwala, District Sri Muktsar Sahib and all the subsequent proceedings arising therefrom on the ground that original complaint under Section 138 of NI Act in which the petitioner was declared proclaimed person has since been compromised.

Contention of learned counsel for the petitioner is that petitioner was not served even once. Rather the reports on the summons, bailable warrants and warrants of arrest clearly reflected that both the premises of the petitioner, addresses of which have been mentioned in the complaint were lying locked. Learned counsel contends further that no effort was made by the complainant – respondent to provide the correct address of the petitioner who had shifted to Gujarat. It is also contended by learned counsel that even the mandatory provisions of Section 82 Cr.P.C have not been complied with as the proclamation was not publicly read in some conspicuous place of the town, where the petitioner ordinarily resides, which is the mandatory requirement of Section 82(2) Cr.P.C.

Learned State Counsel could not refute the afore-said contentions, which otherwise also, are borne out of the record.

Perusal of the paper book would reveal that complaint Annexure P.1 was filed by Mukhtiar Singh Rachpal Singh, Commission Agents against M/s Dureja Rice Mills through Rahul Dureja and his brother Sahil Dureja. After recording preliminary evidence, summoning order was issued on 16.04.2016. Summons were directed to be issued for 13.07.2016. Annexure P.2 is the report of the concerned Process Server revealing that when he visited Dureja Rice Mills i.e. the address as mentioned in the complaint, the same was found to be locked. He then went to the spot at Green Avenue Colony, Mission ground opposite Kamra Hospital, Kotkapura Road, i.e. the other address of the petitioner as mentioned in the complaint, but the house was found to be locked. Despite this report on the summons, the Court concerned issuedailable warrants as per order dated 14.02.2017 (Annexure P.3). Again the similar report was received on the warrants as evident from Annexure P.4. Then warrants of arrest were issued vide order dated 08.03.2017 (Annexure P.5) and same report was again received vide Annexuer P.6. Then proclamation was directed to be issued on 21.09.2017 for 02.11.2017. Vide another order dated 28.09.2017, proclamation was then directed to be issued for 08.11.2017. The order dated 08.11.2017 (Annexure P.9) would reveal that without recording any satisfaction regarding abscondance of the petitioner or that he was intentionally concealing himself, Court proceeded to declare him a proclaimed person and further directed to register FIR under Section 174-A IPC against him.

Learned counsel has rightly pointed out towards the report of the serving constable Annexure P.11 which would reveal that both the addresses as mentioned in the proclamation were found to be locked. No effort was made by

the Executing Constable to publicly read the proclamation in some conspicuous place of the town or village as is the requirement of Section 82(2) Cr.P.C.

Having regard to the afore-said facts and circumstances of the case, the impugned order declaring the petitioner as proclaimed person and the subsequent FIR under Section 174-A IPC cannot be sustained. As such, FIR No.184 dated 06.12.2017 registered under Section 174-A IPC at Police Station Kabarwala, District Sri Muktsar Sahib based on the order dated 08.11.2017 (Annexure P.9) and all the subsequent proceedings are hereby quashed.

September 14, 2023
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(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No