

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

204.

CRM-M No.40163 of 2022 (O&M)

Date of Decision:28.11.2023

Sachin Kumar

...Petitioner

Versus

Ajay Sharma

... Respondent

CORAM : HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. APS Sandhu, Advocate and
Mr. G.S. Saggi, Advocate
for the petitioner.

Mr. Vaibhav Narang, Advocate
for the complainant.

HARPREET SINGH BRAR, J. (ORAL)

1. The petitioner has approached this Court under Section 482 Cr.P.C. seeking quashing of order dated 10.08.2022 (Annexure P-5) passed by the learned Judicial Magistrate Class 1st Class, Amritsar in NACT No.1089 of 2019 titled as *Ajay Sharma Vs. Sachin Kumar etc.* whereby the petitioner has been declared a proclaimed person and proceedings under Section 174A IPC were ordered to be initiated against him.

2. Learned counsel appearing for the petitioner, *inter alia*, contends that a complaint under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as the NI Act) was filed against the petitioner at the instance of the respondent-complainant on the ground that four cheques amounting ₹3,58,615/- allegedly issued by the petitioner for discharging his debt liability towards the respondent-complainant were dishonoured. The petitioner was appearing regularly before the trial Court, however, due to unavoidable circumstances, he could not appear on 16.09.2021 and 12.11.2021.

On 12.11.2021, learned trial Court while observing that the petitioner is trying

to evade the service to prolong the trial, cancelled the bail order of the petitioner and forfeited his cash surety to the State. Further, non-bailable warrants were issued against him. It is further contended that owing to upsurge of COVID-19 pandemic, the Courts were not working at its full strength, however, the proclamation proceedings were going on and the proclamation was issued on 05.04.2022, 25.04.2022 and 08.07.2022. On 08.07.2022, the petitioner came to know that the Courts had started working again and since the proclamation proceedings were going on against him, he applied for anticipatory bail before the Sessions Judge, Amritsar which was dismissed vide order dated 13.07.2022. However, the petitioner was declared a proclaimed person vide impugned order dated 10.08.2022 and against the said order, the petitioner approached this Court by way of instant petition.

3. Learned counsel appearing for the petitioner further submits that on 05.09.2022 when the matter came up for hearing before this Court, the petitioner had submitted that if he was given one chance to appear before the learned trial Court along with concession of bail, he would deposit half of the disputed cheque amount. Therefore, this Court while issuing notice of motion on 05.09.2023, had observed that till next date of hearing, no proceedings for registration of the FIR would be initiated, if not registered till date. Thereafter, the matter came up for hearing on 15.03.2023 but no one had put in appearance on behalf of the respondent, despite service and the matter was adjourned to 11.07.2023, on which date, it was adjourned for today as the lawyers were abstaining from work. The petitioner is ready to deposit the amount as submitted by him on 05.09.2022.

4. At this stage, Mr. Vaibhav Narang, Advocate files his vakalatnama for the respondent, which is taken on record. He submits that the petitioner had

concealed himself from the process of law to prolong the trial proceedings intentionally and therefore, the impugned order does not warrant any interference. It is further submitted that in another complaint pending between the same parties, the petitioner has been declared as proclaimed person, which shows *mala fide* intent of the petitioner.

5. I have heard learned counsel for the parties and perused the record of the case with their able assistance.

6. The sole purpose of issuance of non-bailable warrants or issuance of proclamation is to secure presence of the accused before the trial Court. Keeping in view the fact that the petitioner is ready to deposit half of the cheque amount and has undertaken to appear before the trial Court on each and every date, the impugned order dated 10.08.2022 (Annexure P-5) vide which the petitioner was declared proclaimed person is set aside, subject to the condition that the petitioner shall appear before the trial Court on or before 18.12.2023 along with demand draft of half of the disputed cheque amount drawn in favour of the respondent-complainant as per his undertaking given to this Court on 05.09.2022 at the time of issuance of notice of motion. On his doing so, he shall be admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of the trial Court. In case the petitioner fails to deposit the amount as stipulated, order passed by this Court shall stand automatically vacated.

7. The instant petition stands disposed of in above terms.

(HARPREET SINGH BRAR)
JUDGE

November 28, 2023
Pankaj*

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No