

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

208+103

CRM-M No.50575 of 2022(O&M)

Date of decision: 23.01.2023

DINESH KAUSHIK

...Petitioner

Versus

CHOLAMANDLAM INVESTMENT AND FINANCE LIMITED

...Respondent

CORAM : HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Gaurav Dutta, Advocate
for the petitioner.

Mr. Nitin Thatai, Advocate
for the respondent.

RAJ MOHAN SINGH , J.(ORAL)

The petitioner has preferred this petition under Section 482 Cr.P.C. for quashing of criminal Complaint No.NACT/3339/2019 dated 10.09.2019 under Sections 138 and 142 of the Negotiable Instruments Act along with order dated 08.11.2021 passed by the Judicial Magistrate, 1st Class, Karnal vide which the petitioner was declared as proclaimed person.

On 05.12.2021, the following order was passed:-

CRM-45777-2022

The petitioner has filed this application for placing on record interlocutory orders passed by the trial Court from time to time.

For the reasons mentioned in the

application, the same is allowed and orders passed from 10.09.2019 to 08.10.2021 by the Judicial Magistrate Ist Class, Karnal are taken on record, subject to all just exceptions.

Main case

Learned counsel for the petitioner with reference to order dated 10.01.2020 passed by the Judicial Magistrate Ist Class, Karnal submits that the summon was allegedly affixed on the address of the petitioner in contravention of Section 65 of the Code of Criminal Procedure without complying with the requirement of Sections 62, 63 and 64 Cr.P.C. On the next date, the trial Court passed an order dated 03.02.2020, seeking to secure presence of the petitioner through proclamation under Section 82 Cr.P.C. The proclamation was to be issued before 25.02.2020. On 25.02.2020, warrants of arrest issued against the petitioner were not received back executed or otherwise. Fresh warrants of arrest were issued for 28.04.2020. Thereafter, due to prevailing situation arising out of COVID-19, the case was deferred and it was again taken up on 03.09.2021 and proclamation was ordered to be issued before 08.10.2021. The proclamation was infact done on 18.09.2021, requiring the petitioner to appear on 08.11.2021.

*Learned counsel further contends that it would not be in consonance with the ratio of **Ashok Kumar vs State of Haryana and another, 2013(4) RCR (Criminal) 550**. Further, the alleged service through servant of the petitioner as observed in the order dated 03.09.2021 would be against the spirit of Section 64 Cr.P.C.*

Notice of motion for 14.12.2022.

Dasti as well.”

Learned counsel for the respondent submits that parties have amicably resolved their differences and the

respondent has no objection in case the complaint along with the order dated 08.11.2021 is quashed.

Learned counsel for the respondent further submits that money has already been received by the respondent and NOC has already been issued in favour of the petitioner on 06.07.2022.

In view of the proceedings on record, it can be noticed that the summon was issued to the petitioner and the same was allegedly affixed on the address of the petitioner in violation of Section 65 of the Code of Criminal Procedure as the same was without complying with the requirement of Section 62, 63 and 64 Cr.P.C. The trial Court proceeded to pass an order dated 03.02.2020 seeking to secure the presence of petitioner through proclamation under Section 82 Cr.P.C. for which the proclamation was to be issued before 25.02.2020. On 25.02.2020, warrants of arrest issued against the petitioner were not received back duly executed and fresh warrants were issued for 28.04.2020. Thereafter, due to prevailing situation arising out of COVID-19, the hearing in the case was deferred and the same was taken up only on 03.09.2021 and proclamation was ordered to be issued for 08.10.2021. The proclamation was in fact done on 18.09.2021, requiring the petitioner to appear on 08.11.2021.

The issue is covered by the ratio of **Ashok Kumar Vs. State of Haryana and another 2013 (4) RCR (Criminal) 550.** Moreover, the parties have amicably resolved their differences.

It is a settled principle of law that the proceedings under Sections 138 and 142 of the Negotiable Instruments Act can be quashed on the basis of compromise even at revisional stage.

In view of the consensus arrived at between the parties, I deem it appropriate to quash the criminal Complaint No. NACT/3339/2019 dated 10.09.2019 titled Cholamandlam Investment and Finance Limited vs. Dinesh Kaushik under Sections 138 and 142 of the Negotiable Instruments Act and order dated 08.11.2021 passed by the Judicial Magistrate 1st Class, Karnal.

Petition stands disposed of.

23.01.2023
P.Bhatt

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No