

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

251

CRM-M-45265-2019 (O&M)

Date of decision: 21.09.2023

M/S Jamal Trading Company and another

....Petitioners

Versus

M/s Avneet Textiles and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. H.S. Thiara, Advocate for the petitioners

Mr. V.K. Sandhir, Advocate for respondents

AMAN CHAUDHARY. J.

1. The present petition has been filed under Section 482 CrPC for quashing of the judgment/order dated 07.09.2019 passed by the learned Sessions Judge, Amritsar vide which the revision petition filed by the petitioner for setting aside the proclaimed person orders was dismissed and for quashing of the order dated 30.08.2014 passed by the Judicial Magistrate 1st Class, Amritsar vide which the petitioner was wrongly declared a proclaimed offender in complaint Case No.6888 filed by the respondent.

2. Learned counsel submits that the petitioner is a resident of Jammu and Kashmir and is running his business in Maharashtra. He was not served in the complaint filed by respondents under Section 138 NI Act, which led to him being declared as a proclaimed person vide order dated 30.08.2014, which was unsuccessfully challenged before the revisional Court and dismissed vide order dated 07.09.2019, Annexure P-2. The absence of the petitioner is neither wilful

nor deliberate and is for reason of not having been served. He is however, ready and willing to join the proceedings for which one opportunity is being sought for him to surrender before the learned trial Court. Reliance is placed on the orders of this Court in CRM-M-38277-2022 dated 26.08.2022, in the case of **Surjit Singh vs. State of Punjab**, CRM-M-39000-2022, titled as **Raghav vs. State of Punjab**, decided on 09.09.2022 and CRM-M-36490-2022, titled as **Major Singh vs. State of Punjab**, decided on 15.09.2022.

3. Learned counsel for the respondents submits that the impugned order has been rightly passed by the trial Court, however, has no objection to the surrender by the petitioner before the trial Court, in case it is subject to costs.

4. Heard.

5. The very purpose of initiation of proclamation proceedings, is to compel and secure the presence of the accused to face trial and establish the rule of law, as also to ensure finalization of the proceedings.

6. Keeping in view the facts and circumstances of the case, judgments referred to hereinabove, the readiness and willingness of the petitioner to surrender and join the proceedings, which was incumbent upon him for the culmination of the same, the present petition deserves to be and is allowed, in the interest of justice, so as to facilitate expediting the trial and taking it to the logical end. Accordingly, the impugned orders are set aside and the petitioner is directed to surrender before the trial Court on or before 15.10.2023 and deposit Rs.15,000/- as costs, which shall be disbursed to the complainant forthwith, whereupon, he be released on bail on his furnishing bail/surety bonds, subject to satisfaction of the trial Court. He shall also furnish an undertaking by way of an affidavit that he will

appear on each and every date of hearing before the trial Court, unless specifically exempted by the Court. He shall not leave the country without prior permission of the Court. The trial Court may impose any other condition that it may deem appropriate in the facts and circumstances of the present case.

7. Before parting with this order, it is made abundantly clear that in case the petitioner does not adhere to the aforesaid, the present petition shall be deemed to have been dismissed without any reference to this Court.

(AMAN CHAUDHARY)
JUDGE

September 21, 2023

M.Kamra

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No