

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

117

CRM-M-49946-2023 (O&M)
Date of decision: 04.10.2023

Rekha Rani

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Ms. Puja Chopra, Advocate for the petitioner.

AMAN CHAUDHARY. J.

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of order dated 24.08.2023 passed by the Judicial Magistrate 1st Class, Patiala, vide which the petitioner has been declared proclaimed person in complaint bearing No.COMA-3916-2016, instituted on 05.11.2016 and all subsequent proceedings arising therein.

2. Learned counsel contends that the petitioner, working as Ward Attendant in Rajindra Hospital, Patiala, was summoned in a complaint under Section 138 Negotiable Instruments Act, vide order dated 17.12.2016, consequent thereto there was a settlement that was arrived at before the Mediation Center in the District Court at Patiala on 10.08.2017 whereby an amount of Rs.85,000/- was paid by her, receipts of which are referred to being Annexures P1 to P3. She was declared proclaimed offender vide order dated 10.10.2018, whereafter on her

surrender, regular bail was granted vide order dated 09.09.2019, Annexure P4. Out of the total amount of Rs.2,72,500/-, Rs.1,25,000/- was to be paid on or before 31.03.2020, on failure of which, her salary was ordered to be attached for 6 months. The complaint was listed on 30.11.2019 and was ordered to be adjourned sine die in view of the complainant admitting the factum of compromise and amount being deducted from the salary of the petitioner. However, in the year 2023, on an application seeking restoration of complaint filed by the private respondents, the same was restored to its original number, wherein summons and warrants were sent at the old address of the petitioner which had been so vacated by her in April, 2022, reference in this regard is made to a letter issued by the Medical Superintendent, Rajindra Hospital, Patiala, Annexure P6. This led to the petitioner having been declared proclaimed person vide order dated 24.08.2023, Annexure P8. Her absence is neither wilful nor deliberate. Further, that she is ready and willing to join the proceedings and it is prayed that one opportunity may be granted to her to surrender before the trial Court, even if the same is subject to costs.

3. Ms. Himani Arora, AAG, Punjab, appears on receipt of advance notice and opposes the prayer made on the ground that the order declaring the petitioner as proclaimed person has been validly passed.

4. Heard

5. There is no necessity of issuing notice to call upon for any response from respondent Nos.2 to 4, in view of the order this Court is proposing to pass, it being not prejudicial to their interest.

6. 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.

7. This Court finding the absence of the accused being on account of the fact that he had met with an accident, thus was advised two months' complete bed rest in **Anurag Sharma vs. Parkash Yadav**, CRM-M-47844-2023, vide order dated 21.09.2023, directed him to surrender before the trial Court, and file an application for grant of bail. Similarly, in **Darbar Singh vs. State of Haryana and Another**, CRM-M-2845-2023, decided on 18.01.2023 the accused, who was declared person, was directed to surrender before the trial Court, upon which he was to be granted bail, this Court found that he was posted as SPO elsewhere, when the summons were issued therefore he could not appear.

8. Adverting to the facts of the present case, the proclamation proceedings were initiated against the petitioner at her old address, where she no longer resided, thus, without effecting a proper service upon her, the same were not justified.

9. 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 her 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 for taking it to its logical end.

10. As a consequence of the aforesaid, the impugned order dated 24.08.2023 is set aside and the petitioner is directed to surrender before the trial Court on or before 16.10.2023 and deposit Rs.10,000/- as costs to be paid to respondent Nos. 2 and 3, whereupon, she be released on the same bail/surety bonds as had been furnished by her at the time of granting bail. She shall also

furnish an undertaking by way of an affidavit that she will appear on each and every date of hearing before the trial Court, unless specifically exempted by the Court. She 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.

11. 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.

04.10.2023
ashok

(AMAN CHAUDHARY)
JUDGE

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