

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

CRM-M-52016-2023

Date of decision: 13.10.2023

LOKENDER KUMAR

...Petitioner

V/s

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Archit Rana, Advocate for the petitioner.

Ms. Svaneel Jaswal, Addl. A.G. Haryana.

ARUN MONGA J. (ORAL)

Petition herein seeking quashing/setting-aside of order dated 30.09.2023 passed by learned Sub-Divisional Judicial Magistrate, Kalka, District Panchkula, vide which petitioner has been declared proclaimed person. Further prayer has been made for staying consequential proceedings arising out of said order.

2. Learned counsel for the petitioner submits that due to the sudden demise in the petitioner's family, he could not attend Court proceedings on 30.09.2023. An application for exemption was filed before the learned trial Court but the same was declined and impugned order was passed straight away.

2.1. Learned counsel contends that reasons that weighed with the learned trial court are the past non appearance of the petitioner despite the fact that summoning order was passed way back on 22.05.2018. He submits that after passing of the summoning order, the petitioner was never served with the Court process, including warrants. Same were admittedly served at an address in Shimla, whereas the petitioner has been residing in Manali for the past four to five years. Petitioner when came to know of the pendency of case, hired a lawyer and requested him to file an exemption application for hearing dated

2.2. He further contends that, in any case, instead of undergoing unnecessary harassment of a trial, given that the amount of the cheque is only Rs. 48,000, in order to buy peace, the petitioner is willing to settle the matter with the complainant, without prejudice to his rights.

3. Notice of motion.

4. Upon advance service of a copy of the petition, learned State counsel appears and accepts notice on behalf of the respondent-State of Haryana.

5. Given the nature of order proposed to be passed, it is deemed appropriate to dispense with the service of the complainant, as it would unnecessarily add to the litigation cost to be borne by him.

6. In view of the aforementioned statement and given that there is a petty amount of Rs. 48,000 involved, and for the reasons stated in the petition concerning non-service of Court process, the impugned order dated 30.09.2023 is set aside on the condition that the petitioner shall cause his appearance before the learned trial Court within four weeks from today. He shall also take necessary steps to compromise the matter with the complainant, as stated hereinabove.

7. Pending applications, if any, shall also be disposed of accordingly.

OCTOBER 13, 2023
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No