

S. No.131

2023:PHHC:151484

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

CRM-M-52698 of 2023 (O&M)

Date of Decision:29.11.2023

Rajinder Kumar

.....Petitioner

Vs.

Bhagwan Shri Chand Finance Company

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Ritesh Pandey, Advocate for the petitioner.
Mr. Aazam Khan, Advocate for the respondent.

DEEPAK GUPTA, J. (Oral)

CRM No.50155 of 2023

This is an application for placing on record copies of the zimni orders as passed by the trial Court.

Application is allowed. Copies of the zimni orders, annexed with the application are taken on record.

CRM-M-52698 of 2023

By way of present petition filed under Section 482 Cr.P.C., petitioner has prayed for quashing of Criminal Complaint bearing No.NACT/520/2020 dated 17.12.2020 titled as “M/s Bhagwan Shri Chand Finance Vs. Rajinder Kumar” (Annexure P.1) filed under Section 138 of the Negotiable Instruments Act, and order dated 17.01.2023 (Annexure P.2) whereby the petitioner was declared proclaimed person, on the basis of compromise dated 21.08.2023 (Annexure P.3).

By pointing out towards the various orders as passed by the learned trial Court, it is contended by learned counsel that after issuing the summoning order on 02.08.2021, petitioner was never served personally. His service was

assumed on the basis that notice sent through registered post had not been received back undelivered despite lapse of 30 days' period. Besides, learned counsel has drawn attention towards the fact that proclamation was directed to be issued vide order dated 07.11.2022 for 20.12.2022. Proclamation was received back duly effected on 20.12.2022 but as the period of 30 days had not elapsed, so matter was adjourned to 17.01.2023 and then on the adjourned date of 17.01.2023, the petitioner was declared proclaimed person.

It is rightly contended by learned counsel for the petitioner that it was clear violation of Section 82 Cr.P.C because there was no proclamation for 17.01.2023 on which date, petitioner was declared proclaimed person whereas period of 30 days had not elapsed on 20.12.2022 for which date the proclamation had been issued.

Considering the afore-said facts and circumstances, the impugned order dated 17.01.2023 (Annexure P.2) as passed by the learned trial Court is hereby quashed.

Since the matter is stated to have been compromised between the parties, therefore, respondent- complainant will be at liberty to move necessary application before the trial Court concerned for withdrawal of the complaint.

With the afore-said directions, the present petition stands disposed of.

November 29, 2023

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(DEEPAK GUPTA)

JUDGE

Whether Speaking/reasoned

Yes/No

Whether Reportable

Yes/No