

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

CRM-M-60215-2022

Date of decision : 09.05.2023

Jasbir Singh Grewal

.....Petitioner

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Rajender Kumar, Advocate for
Mr. Pushpinder Kaushal, Advocate
for the petitioner.

Mr. Karunesh Kaushal, AAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

Petitioner has approached this Court praying for quashing the order dated 14.10.2021 passed by learned Judicial Magistrate Ist Class, Rajpura declaring him proclaimed person in the complaint No.COMA-207-2019, under Section 138 of the Negotiable Instruments Act against the provisions of Section 82 of Cr.P.C. With further prayer for quashing of FIR No.16 dated 08.03.2022, under Section 174-A of IPC, registered at Police Station Banur, District Patiala along with subsequent proceedings arising therefrom.

This Court vide order dated 22.12.2022 directed the petitioner to appear before the Court subject to the conditions mentioned therein.

Learned counsel for the petitioner has submitted that the complainant has filed a complaint against him under Section 138 of the Negotiable Instruments Act wherein he was ordered to be summoned but due to his incorrect address, he could not be served. Resultantly, the trial Court passed order dated 14.10.2021 declaring him proclaimed person.

Learned counsel for the petitioner submits that in pursuance to order dated 22.12.2022, petitioner has appeared before the trial Court and he has been granted bail as well. He submits that the petitioner was declared proclaimed person in violation of provisions of Section 82/83 Cr.P.C. but now he has appeared and thus, his prosecution in the FIR, registered under Section 174-A IPC is nothing but an abuse of the process of the Court. The absence of the petitioner before the trial Court was neither intentional nor willful due to mentioning of his incorrect address.

Learned State counsel, on instructions, has endorsed the submissions made by counsel for the petitioner that petitioner has duly appeared before the court and he has been granted bail as well.

Private respondent was served but none has appeared for him.

Heard. After hearing learned counsel for the parties, it is apparent that the petitioner is being prosecuted in a complaint under Section 138 of the Negotiable Instruments Act and the petitioner has joined investigation in FIR registered under Section 174-A IPC. This Court is conscious of the fact that petitioner was declared proclaimed person due to his absence and the reason for the lapse as stated by the petitioner is mentioning of his incorrect address. Now the petitioner has already joined the proceedings and has been admitted to interim bail by the concerned Court so, this Court is of the opinion that prosecution of the petitioner in the case registered under Section 174-A IPC is nothing but an abuse of the process of the Court. So keeping in view the facts and circumstances of the case, the present petition is disposed of and the impugned order dated 14.10.2021 is *set aside* subject to payment of Rs.10,000/- as costs to be paid to the complainant as due to absence of the petitioner trial of the complaint

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case filed by the complainant has been delayed. In case petitioner appears before the trial Court within ten days from today and deposit Rs.10,000/- as costs to be paid to the complainant on his appearance then petitioner who is already on interim bail will be allowed to join the proceedings. The petitioner will keep on attending the Court as per its directions.

Needless to say that in case the petitioner fails to comply with the abovesaid direction, he will have no benefit of abovesaid protection granted by this Court and order under challenge dated 14.10.2021 would come in force.

Petition stands disposed of.

(RAJESH BHARDWAJ)
JUDGE

09.05.2023
m. sharma

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