

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM-M-1471-2024 (O&M)

Date of Decision: January 11, 2024

SANDEEP

.....Petitioner

Versus

STATE OF HARYANA AND ANOTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Ms. Pooja Jaglan, Advocate for the petitioner.

Mr. Chetan Sharma, DAG, Haryana.

HARKESH MANUJA, J. (ORAL)

1. By way of present petition filed under Section 482 CrPC, prayer has been made for quashing of the order dated 04.11.2019 passed in complaint NACT No.5760/2018 dated 27.08.2018 titled as 'Axis Back vs. Sandeep' under Section 138/145 of Negotiable Instrument Act, 1881, whereby the petitioner was declared as a proclaimed person as well as the FIR No.103 dated 14.02.2022 registered under Section 174-A of IPC, at P.S. Karnal Civil Lines, Karnal.

2. Briefly stating, in the present case, the petitioner was arrayed as an accused in a complaint under Section 138 of Negotiable Instruments Act, 1881 wherein, he was summoned by the trial Court. Having failed to appear in pursuance of a summoning order, the petitioner was declared as proclaimed person vide order dated 04.11.2019 followed by registration of the aforementioned FIR against him under Section 174-A IPC.

3. Impugning the aforesaid, learned counsel for the petitioner submits that the proceedings carried out against the petitioner for declaring him as proclaimed person were wholly vitiated being in violation of Section 82 of CrPC and thus, the same as well as the registration of the FIR in pursuance thereof are liable to be quashed.

4. On the other hand, learned counsel for the respondent-State submits that despite having knowledge about pendency of the complaint as well as summoning order, the petitioner chose not to appear and thus, the proceedings carried out against him warrant no interference.

5. At this stage, it may be pointed out here that since, the petitioner is seeking quashing of order dated 04.11.2019 whereby, he was declared as proclaimed person as well as FIR No.103 dated 14.02.2022 registered under Section 174-A IPC, the matter mainly concerns the State of Haryana and not the complainant, thus, service of notice upon respondent No.2 may not be necessary.

5. I have heard learned counsel for the parties and gone through the paper-book. I find substance in the submissions made by learned counsel for the petitioner.

6. A perusal of the statement of the executant-Police Officer at Page-18 (Annexure P-5) shows that the proclamation was never read over in public place thereby violating the mandate of Section 82(2)(i)(a) of CrPC. Thus, the order dated 04.11.2019 passed by the trial Court, declaring the petitioner as proclaimed person cannot be sustained.

Section 82 of the CrPC which primarily relates to the appearance of the individual before the Court stems from Article 21 of the Constitution of India and thus, being inviolable, has to be followed mandatorily. Moreover, the main complaint filed at the instance of respondent No.2 against the petitioner already stands withdrawn vide order dated 18.03.2023.

7. In view of the above, FIR No.103 dated 14.02.2022 registered under Section 174-A IPC, based on declaration of the petitioner as proclaimed person is hereby quashed.

11.01.2024
Tejwinder

(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>