

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

**CRM-M No. 1736 of 2024 (O&M)
Date of Decision: 16.01.2024**

Ved Parkash

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Karan Singla, Advocate and
Ms. Malvi Aggarwal, Advocate
for the petitioner.

HARKESH MANUJA, J. (ORAL)

The petitioner, by way of present petition filed under Section 482 Cr.P.C., seeks quashing of FIR No. 0057 dated 05.08.2023 under Section 174-A of IPC, registered at Police Station Khanauri, District Sangrur (Punjab), which was got registered against him in furtherance to an order dated 13.02.2023 passed by learned Sub Divisional Judicial Magistrate, Moonak.

[2] In the present case, a complaint under Section 138 of Negotiable Instruments Act, 1881 was filed against the petitioner, wherein he was ordered to be summoned on 12.07.2022. On account of his non-appearance before the trial Court, the proclamation under Section 82 Cr.P.C. was ordered on 07.01.2023 for 13.02.2023 and on the said date, the petitioner was declared as proclaimed person.

[3] Learned counsel for the petitioner submits that while declaring the petitioner as proclaimed person, the mandatory compliance of Section 82 Cr.P.C. was not effected and thus, the proceedings carried out against him is wholly vitiated including the FIR (supra).

[4] Notice of motion.

[5] Mr. Shubham Kaushik, Assistant Advocate General, Punjab, accepts notice and vehemently opposes the prayer made in the petition while submitting that despite having knowledge about the pendency of the proceedings, the petitioner chose not to appear before the trial Court and thus, the proceedings initiated against him including the FIR in question, warrants no interference.

[6] I have heard learned counsel for the parties as well as gone through the paper-book and find substance in submissions made on behalf of the petitioner.

[7] A perusal of the zimni orders shows that the trial Court vide order dated 07.01.2023 issued proclamation under Section 82 Cr.P.C. for 13.02.2023 as the date for appearance of the petitioner. Admittedly, the proclamation was effected on 12.02.2023 with 13.02.2023 being the date for appearance and, therefore, no clear-cut 30 days period was ever afforded to the petitioner for putting in appearance from proclamation, thereby violating the mandate of Section 82 Cr.P.C.

[8] Moreover, the order dated 13.02.2023 was assailed by the petitioner before this Court by way of CRM-M-46037-2023, titled “*Ved Parkash Versus State of Punjab and another*”, which came for hearing on 14.09.2023, wherein the petitioner was directed to surrender before the

trial Court within a period of seven days and to move an application for grant of bail. In pursuance thereof, the petitioner appeared before the trial Court on 20.09.2023 and was admitted to bail. Equally important the petitioner was also granted the concession of anticipatory bail in the present FIR, vide order dated 19.09.2023 passed by learned Sessions Judge, Sangur.

[9] In view of the discussion made hereinabove, once the order dated 13.02.2023 is found to be in violation of the mandate laid down under Section 82 Cr.P.C., the FIR in question cannot be sustained against the petitioner and the same is hereby quashed including consequential proceedings.

[10] **Disposed off.**

[11] Pending miscellaneous application(s), if any, shall also stand disposed off.

January 16, 2024
'dk kamra'

(HARKESH MANUJA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No