

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

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CRM-M-3020-2024  
Date of Decision: 20.01.2024  
2024: PHHC: 008111

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DINESH

. . . . Petitioner

Vs.

State of Haryana and another

. . . . Respondents

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CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

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Present: - Mr. Gaurav Sharma, Advocate, for the petitioner.

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DEEPAK GUPTA, J.

By way of this petition filed under Section 482 CrPC, petitioner prays to quash order dated 03.10.2023 (Annexure P16) passed by Id. JMIC, Samalkha, District Panipat, whereby petitioner has been declared proclaimed person in a complaint case bearing No.NACT 224 of 2019 titled '*Sardar Electrical Store Vs. M/s Kaushik Electrical Trading Co. etc.*' under Section 138 of the Negotiable Instruments Act, 1881 [for short 'the NI Act'] and all the subsequent proceedings arising therefrom including quashing of the FIR No.967 dated 20.10.2023 (Annexure P17) registered under Section 174-A IPC at Police Station Samalkha, District Panipat.

2. It is contended by Id. counsel that petitioner was never served even once. Even the proclamation under Section 82 CrPC was not issued in accordance with law and that he is ready to appear before the trial Court concerned to face trial.
3. Notice to respondent No.1.

4. Mr. Sumit Jain, Addl. AG, Haryana accept notice on behalf of respondent No.1.

5. Perusal of the paper-book reveals that complaint (Annexure P1) was filed by respondent No.2 seeking prosecution of the accused M/s Kaushik Electrical Trading Co. through its proprietor Dinesh Kumar (*petitioner herein*) under Section 138 of the NI Act. After recording preliminary evidence, process against the petitioner was issued on 16.10.2019 (Annexure P2). Perusal of the various zimni orders, as placed on record, would reveal that summons were not served upon the petitioner even once. Most of the time, matter was adjourned due to the pandemic Covid 19. It is on 07.02.2022 that notice was received with the report that petitioner had refused to receive the summons due to which warrant of arrest was issued. However, warrant of arrest was never received back executed or otherwise. Vide order dated 08.05.2023 (Annexure P14), proclamation under Section 82 CrPC was directed to be issued for 26.07.2023. It is revealed that though the proclamation was received back duly effected as per order dated 26.07.2023 (Annexure P15), but matter was adjourned to 03.10.2023 for presence of the accused. It is only on the adjourned date of 03.10.2023 that petitioner was declared proclaimed person as is evident from Annexure P16.

7. Ld. counsel for the petitioner has rightly contended that there is no report as to whether the period of 30 days had elapsed or not on 26.07.2023, for which date the proclamation was issued; whereas there was no proclamation for 03.10.2023, on which date petitioner was declared proclaimed person.

8. Ld. State counsel could not refute these contentions.

9. In view of the above, the impugned order dated 03.10.2023 (Annexure P16) declaring the petitioner as proclaimed person, is in clear

violation of Section 82 CrPC. As such, the present petition is allowed. Order dated 03.10.2023 (Annexure P16) passed by Id. JMIC, Samalkha, District Panipat and all the subsequent proceedings arising therefrom including the FIR No.967 dated 20.10.2023 (Annexure P17) registered under Section 174-A IPC at Police Station Samalkha, District Panipat, are hereby quashed.

Petitioner is directed to surrender before the trial court concerned within 15 Days from today.

Disposed of.

20.01.2024  
*Vivek*

(DEEPAK GUPTA)  
JUDGE

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| 1. Whether speaking/reasoned? | Yes |
| 2. Whether reportable?        | No  |