

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-5479-2024

Date of Decision: February 12, 2024

ILIKA BISHT AND ANOTHERPetitioners
Versus
STATE OF HARYANA AND ANOTHERRespondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Saleem Ahmed, Advocate for the petitioners.
Mr. Rajiv Sidhu, DAG, Haryana.

HARKESH MANUJA, J. (ORAL)

By way of present petition filed under Section 482 CrPC, prayer has been made for quashing of FIR No.0045 dated 05.02.2023 registered under Section 174-A IPC at P.S. Sarai Khawaja, District Faridabad (Haryana).

2. In the present case having been implicated as an accused in complaint No. NACT-6930-2018 dated 28.05.2018 titled as M/s. Sandhya Textiles Vs. M/s. four House Sourcing Pvt. Ltd., the petitioners were summoned. On account of their non-appearance, the petitioners were declared as proclaimed persons vide order dated 27.01.2023 followed by registration of FIR against them.

3. Learned counsel for the petitioners submits that while declaring the petitioners as proclaimed persons, there was total non-compliance of Section 82 of CrPC and thus, the proceedings arising out the FIR in question were liable to be set aside.

4. On the other hand, learned State counsel vehemently opposes the prayer made herein while submitting that the petitioners despite having knowledge about the pendency of complaint chose not to submit himself before the Court concerned and thus, the FIR in question warrants no interference.

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 petitioners.
6. A perusal of the order dated 22.12.2022 passed by the trial Court shows that the proclamation was published on 16.12.2022 for 22.12.2022 and on the said date the statutory period of 30 days had not expired. As such the matter was adjourned for 27.01.2023 for awaiting the appearance of the petitioners and it was only on 27.01.2023, the petitioners were declared as proclaimed persons on account of their non-appearance. In the present case, admittedly, there was no proclamation ordered or effected for 27.01.2023 being the date of appearance for petitioners before the trial Court and thus, the declaration of petitioners as proclaimed persons vide order dated 27.01.2023 is bad in law and in violation of Section 82 of CrPC.
7. Resultantly, the FIR bearing No.0045 dated 05.02.2023 registered under Section 174-A IPC at P.S. Sarai Khawaja, District Faridabad being an abuse of process of law is quashed. Moreover, the parties have already entered into a settlement and a complaint under Section 138 of Negotiable Instruments Act, 1881 stands withdrawn vide order dated 04.03.2023
8. Accordingly, the present petition is allowed subject to payment of costs of Rs.5,000/- to be deposited with the District Legal Services Authority, Faridabad.

12.02.2024
Tejwinder

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No