

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-11337 of 2024(O&M)
Date of Decision: 04.03.2024

Atul Chopra & Ors.

...Petitioners

Versus

State of Haryana

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Bhwnesh Lakhera, Advocate
For the petitioners.

Mr. Vishal Kashyap, DAG Haryana

KARAMJIT SINGH, J.

1. The present petition has been filed by the petitioners seeking quashing of order dated 20.09.2023(Annexure P-4) whereby the petitioners are declared as proclaimed persons in case NACT-2825 of 2018 titled as Deven Textile Industries Pvt. Ltd. Vs. A.M. Vinyl Pvt. Ltd. and FIR No. 0519 dated 25.09.2023 under Section 174-A IPC, registered at Police Station Faridabad Kotwali (Annexure P-6).

2. The counsel for the petitioners submits that impugned order (Annexure P-4) was not passed in accordance with law as 30 days' clear time was not given to the petitioners for their appearance from the date of publication of proclamation as per mandatory provisions of Section 82 Cr.P.C. In this regard counsel for the petitioner has referred to documents Annexure P-2 to P-5. It is further submitted that as order Annexure P-4 was not passed as per law, impugned FIR (Annexure P-6), which is off-shoot of Annexure P-4, also deserves to be quashed.

3. Notice of motion.

4. Mr. Vishal Kashyap, DAG Haryana accepts notice on behalf of respondent State and submits that the present petition be disposed of in accordance with law.

5. I have considered the submissions made by counsel for the parties.

6. From the perusal of Annexure P-3 (page 19), it appears that proclamation of the petitioners under Section 82 Cr.P.C. was issued for 09.08.2023 vide order dated 06.06.2023. As per Annexure P-5 which is report of the serving Constable, it is evident that the proclamation against the petitioners was effected on 12.07.2023 and the date fixed for their appearance before the Court concerned was 09.08.2023. From the perusal of Annexure P-3 (page 20) it appears that on 09.08.2023 the petitioners did not appear before the Court concerned and then the case was fixed for 20.09.2023 for presence of the petitioners and finally on 20.09.2023 the petitioners were declared as proclaimed offenders by the Court concerned. The notice of order dated 09.08.2023 whereby date fixed for appearance of petitioner was extended to 20.09.2023 was not issued to the petitioners. In the given circumstances, it is established that in the present case clear 30 days period as prescribed under Section 82 Cr.P.C. was not given to the petitioners from the date of publication of proclamation i.e. 12.07.2023 as the date fixed for said appearance was 09.08.2023. Further, the proclamation was not publically read at the conspicuous place of the town/ village in which the petitioners were ordinarily residing as per mandate of Section 82 (2)(i)(a) of Cr.P.C., as is evident from the report of serving Constable (Annexure P-5). So, it is apparent that impugned order (Annexure P-4) was

not passed in accordance with law and deserves to be set aside. In this regard, reference be also made to decision of this Court in **Ashok Kumar Vs. State of Haryana & Anr. (Crl. Misc. No. M-13638 of 2013, decided on 05.08.2013).**

7. Impugned FIR (Annexure P-6) was registered under Section 174-A IPC, on the basis of order (Annexure P-4) whereby the petitioners were declared as proclaimed persons. As the impugned order (Annexure P-4) is not sustainable, FIR (Annexure P-6) is also liable to be quashed.

8. In light of the above, without expressing any opinion on the merits of the case, instant petition is allowed and impugned order dated 20.09.2023(Annexure P-4) whereby the petitioners are declared as proclaimed persons in case NACT-2825 of 2018 titled as Deven Textile Industries Pvt. Ltd. Vs. A.M. Vinyl Pvt. Ltd. and consequent FIR No. 0519 dated 25.09.2023 under Section 174-A IPC, registered at Police Station Faridabad Kotwali (Annexure P-6) are quashed. The petitioners are directed to appear before the trial Court concerned and to seek regular bail within 15 days of this order as offence under Section 138 of NI Act is bailable.

04.03.2024

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**(KARAMJIT SINGH)
JUDGE**

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