

135 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-11356-2024
Decided on:-04.03.2024

Ajay JainPetitioner..
vs.

State of HaryanaRespondent.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Jasdeep Singh, Advocate for the petitioner.

HARKESH MANUJA J. (Oral)

1. By way of present petition filed under Section 482 Cr.P.C., prayer has been made for setting aside the order dated 19.03.2019 (Annexure P-4) passed by the Court of Chief Judicial Magistrate Ist Class, Gurugram, whereby, petitioner was declared as proclaimed person.

2. In the present case, respondent No.2 filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 (for short, "NI Act") against the petitioner, wherein, he was summoned. Followed by his non-appearance, petitioner was declared as proclaimed person vide order dated 19.03.2019.

3. Impugning the aforesaid order, learned counsel for the petitioner submits that the proceedings were carried out in violation of the mandate of Section 82 Cr.P.C. and thus, the order was bad in law.

He also points out that the complaint under Section 138 of the NI Act, already stands withdrawn at the instance of respondent No.2 vide order dated 14.09.2023.

4. Notice of motion to respondent No.1-State only as the main complaint under Section 138 of the NI Act, already stands withdrawn by

respondent No.2 vide order dated 14.09.2023 and respondent No.2 is left with no grievance against the petitioner.

5. Mr. Chetan Sharma, DAG, Haryana accepts notice on behalf of respondent No.1-State and vehemently opposes the prayer made herein while submitting that petitioner despite having complete knowledge about the pendency of the trial, failed to appear before the court concerned and was rightly declared as proclaimed person. Thus, the impugned order warrants no interference.

6. I have heard learned counsel for the parties and gone through the paper book.

7. A perusal of order dated 19.03.2019, whereby the petitioner was declared as proclaimed person, nowhere reflects the statutory compliance of the proclamation notice being publicly read in some conspicuous place of the town/village in which the petitioner was ordinarily residing or its affixation upon some conspicuous place of the town/village. Thus, in terms of non-compliance of Section 82(2)(i) (a) & (b) Cr.P.C., the declaration of the petitioner as proclaimed person, was wholly vitiated.

8. Resultantly, the petition is allowed and the impugned order dated 19.03.2019 declaring the petitioner as proclaimed person, is hereby set aside.

9. The aforesaid order is subject to payment of costs of \$500 USD to be deposited with the Poor Patient Welfare Fund, PGIMER, Chandigarh, within a period of two weeks from today.

04.03.2024
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(HARKESH MANUJA)
JUDGE

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