

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M No. 11485 of 2024 (O&M)
Date of Decision: 05.03.2024

Ravdeep Singh

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Harpal Singh Sidhu, 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 the order dated 11.03.2022 (Annexure P-1) passed by the learned Judicial Magistrate First Class, Amritsar, whereby he was declared as Proclaimed Person in complaint case No. NACT/225/2019 dated 09.01.2019, titled “*Sunder Mobile Communications Versus Ravdeep Singh*”; and further quashing of FIR No. 138 dated 15.04.2022 (Annexure P-2) under Section 174-A of IPC, registered at Police Station Division-A, Police Commissionerate Amritsar, District Amritsar.

[2] In the present case, having been arrayed as an accused in the complaint filed under Section 138 of the Negotiable Instruments Act (**for short “NI Act”**), the petitioner was declared as proclaimed person vide order dated 11.03.2022 on account of his non-appearance.

[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 made. He also points out that the complaint under Section

138 of NI Act stood withdrawn at the instance of respondent No. 2-complainant. He thus prays that in terms of settlement having been arrived at between the parties despite discharge of liability by the petitioner in the complaint itself, the subsequent proceedings against him in terms of the impugned order dated 11.03.2022 be dropped.

[4] Notice of motion *qua* respondent No. 1-State of Punjab only.

[5] Mr. Athar Ahmad, Deputy Advocate General, Punjab, accepts notice on behalf of respondent No. 1 and vehemently opposes the prayer made in the petition while submitting that despite having knowledge about the pendency of proceedings as well as the summoning order, the petitioner chose not to appear before the trial Court and thus, the proceedings initiated against him in the impugned order, 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] In the present case, a perusal of the order dated 11.03.2022 (P-1) passed by the learned JMIC, Amritsar, shows that the proclamation under Section 82 Cr.P.C. was effected on 27.10.2021, for 03.11.2021 being the date for appearance; however, the matter was adjourned for 11.03.2022 as the thirty days' period mandated in terms of Section 82 Cr.P.C. was not complete by 03.11.2021. Once, there was no proclamation under Section 82 of Cr.P.C. for 11.03.2022 being the date for appearance, the petitioner could not have been declared proclaimed person by passing the impugned order against him.

[8] Moreover, the parties have entered into a settlement and the petitioner has already paid the entire due amount to the complainant whereas complaint under Section 138 of NI Act stands withdrawn vide order dated 16.11.2022 (Annexure P-3) passed by the learned JMIC.

[9] Resultantly, the petition is **allowed**; the order dated 11.03.2022 (P-1) passed by the learned Judicial Magistrate First Class, Amritsar, declaring the petitioner as “proclaimed person” in terms of Section 82 of Cr.P.C. being in violation of mandate of the statutory provision, as well as the FIR in question alongwith all the subsequent proceedings arising therefrom, are hereby quashed.

[10] The aforesaid order shall, however, be subject to payment of costs of Rs. 10,000/- to be paid by the petitioner with the District Legal Services Authority, Amritsar, within a period of one week from the date of receipt of certified copy of this order.

March 05, 2024
'dk kamra'

(HARKESH MANUJA)
JUDGE

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