

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-12401-2024
Date of decision: 18.03.2024

Atul Chopra and others

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Bhunesh Lakhera, Advocate for the petitioners.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioners seeking quashing of order dated 20.09.2023 (Annexure P-3) whereby the petitioners are declared as proclaimed persons in case NACT-6779 of 2018 titled as Deven Textile Industries Pvt. Ltd. Vs. A.M. Vinyl Pvt. Ltd. and FIR No. 513 dated 25.09.2023 under Section 174-A IPC, registered at Police Station Faridabad Kotwali (Annexure P-5).
2. The counsel for the petitioners submits that impugned order (Annexure P-3) 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-3 was not passed as per law, impugned FIR (Annexure P-5), 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-2 (page 18), 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-4 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 as is evident from Annexure P-2 (page 18). From the perusal of Annexure P-2 (page 19) it appears that on 09.08.2023, counsel appeared on behalf of petitioners and made request for adjournment on the ground that the previous orders passed by the learned trial Court are under challenge in an revision petition pending before revisional Court and accordingly, trial Court adjourned the case to 20.09.2023 for appearance of petitioners. Finally impugned order Annexure P-3 dated 20.09.2023 was passed by the trial Court whereby the petitioners were declared as proclaimed persons.

7. From the perusal of Annexure P-4, it appears that proclamation was not publicly read in some 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. So, it is apparent that impugned order (Annexure P-3)

was not passed in accordance with law and deserves to be set aside.

8. Impugned FIR (Annexure P-5) was registered under Section 174-A IPC, on the basis of order (Annexure P-3) whereby the petitioners were declared as proclaimed persons. As the impugned order (Annexure P-3) is not sustainable, FIR (Annexure P-5) is also liable to be quashed.

9. 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-3) whereby the petitioners are declared as proclaimed persons in case NACT-6779 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-5) are quashed subject to costs of Rs.5,000/- to be deposited by the petitioners with the District Legal Services Authority concerned. 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.

18.03.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No