

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-12888-2024 (O&M)

Date of Decision: 18.3.2024

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.

Present petition has been filed by the petitioners seeking quashing of order dated 20.9.2023 (Annexure P-3) whereby the petitioners are declared as proclaimed persons in case NACT/6781-2018 titled as Deven Textile Industries Private Limited v. A.M.Vinyl Private Limited under Section 138 of Negotiable Instruments Act and FIR No.512 dated 25.9.2023 under Section 174-A IPC registered at Police Station Faridabad Kotwali (Annexure P-5).

2. Counsel for the petitioners submits that the impugned order dated 20.9.2023 (Annexure P-3) was not passed in consonance with law as 30 days time was not given to the petitioners to appear in the Court concerned from the date of publication of the proclamation as per mandate of Section 82 of Cr.P.C.. In this regard, counsel for the petitioners has referred to documents Annexures P-2 to P-4. It is further contended that as order (Annexure P-3) was not passed in accordance with law, impugned FIR (Annexure P-5) which is offshoot of Annexure P-3, is also not sustainable

and deserves to be quashed.

3. Notice of motion.

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

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

6. From the perusal of Annexure P-2 (page 18), it appears that proclamation of the petitioners under Section 82 of Cr.P.C. was issued for 9.8.2023 vide order dated 6.6.2023. As per Annexure P-4 which is report of serving constable, it is evident that proclamation against the petitioners was effected on 12.7.2023 and the date fixed for their appearance before the Court concerned was 9.8.2023 as is evident from Annexure P-2, (page 18). From the perusal of order dated 9.8.2023 (Annexure P-2) page 19, it appears that on 9.8.2023, counsel for the petitioners appeared and brought to the notice of the Court concerned that the petitioners have already filed revision petition challenging earlier orders of the Court and the case was adjourned to 20.9.2023 for appearance of the petitioners. Finally, on 20.9.2023, the petitioners were declared proclaimed persons vide order Annexure P-3.

7. From the perusal of Annexure P-4, it appears that the proclamation was not publicly read in some conspicuous place of the town/village in which the petitioners ordinarily resided, as per mandate of Section 82(2)(i)(a) of Cr.P.C. So, it is apparent that the 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, only on the basis of order Annexure P-3 whereby the petitioners were declared as proclaimed persons. As impugned order (Annexure P-3) is not sustainable, FIR (Annexure P-5) is also liable to be quashed.

9. In light of above, without expressing any opinion on the merits of the case, instant petition is allowed and impugned order dated 20.9.2023 (Annexure P-3) whereby the petitioners were declared as proclaimed persons in NACT-6781-2018 titled as Deven Textile Industries Private Limited v. A.M.Vinyl Private Limited under Section 138 of Negotiable Instruments Act and FIR No.512 dated 25.9.2023 under Section 174-A IPC registered at Police Station Faridabad Kotwali (Annexure P-5) 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 Negotiable Instruments Act is a bailable offence.

(KARAMJIT SINGH)
JUDGE

March 18, 2024
Paritosh Kumar

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