

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

118 CRM-M-15813-2024
Date of Decision.:02.04.2024

Sandhya NagpalPetitioner
Vs.
State of Haryana and anotherRespondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. S.K. Jindal, Advocate
for the petitioner.

DEEPAK GUPTA, J. (ORAL)

By way of this petition filed under Section 482 Cr.P.C., prayer is made to quash order dated 07.04.2014 (Annexure P-1) and dated 16.12.2023 (Annexure P-2) passed by learned JMIC, Gurugram in a criminal complaint titled “Vinod Kumar vs. Sandhya Nagpal” under Section 138 of the Negotiable Instruments Act, whereby petitioner was declared proclaimed person. Petitioner also prays to quash FIR No.518 dated 01.07.2017 under Section 174-A of the IPC (Annexure P-4) registered at Police Station City, Gurugram and all the consequential proceedings arising therefrom.

2. Perusal of the paper-book and some additional documents placed on record would reveal that a complaint under Section 138 of the Negotiable Instruments Act was filed by respondent No.2 Vinod Kumar to prosecute the petitioner- accused Sandhya Nagpal under Section 138 of the Negotiable Instruments Act. After recording preliminary evidence, summoning order was passed on 30.11.2012.

3. Learned counsel for the petitioner with the help of various zimni orders placed on record would contend that petitioner was not served even once. Her service was presumed as notice sent through registered post was not received back despite lapse of 30 days. Thereafter,ailable warrants were issued but the same were received as unexecuted. Warrants of arrest were also received with the similar report. Learned counsel contends that in none of the zimni orders passed by the Magistrate there is any reference about any report on the warrants of arrest as to whether the petitioner had avoided to receive the same or she was concealing herself in any manner.

4. Learned counsel then points out that vide order dated 16.12.2013, proclamation under Section 82 Cr.P.C. was directed to be issued for 10.02.2014. Similar order was repeated on 10.02.2024 for 06.03.2014. Attention is then drawn towards the fact that statement of the executing constable regarding publishing of the proclamation was recorded on 06.03.2014 and then the matter was adjourned to 07.04.2014 for presence of the accused and then the petitioner was declared proclaimed person on 07.04.2014.

5. Learned counsel contends that no proclamation whatsoever under Section 82 Cr.P.C. had been issued for 07.04.2014 on which date the petitioner was declared proclaimed person; whereas presence of the petitioner was not sought for 06.03.2014, for which date the proclamation had been published. Learned counsel contends that these orders would clearly show clear violation of Section 82 Cr.P.C.

6. Apart from the above, learned counsel for the petitioner also

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submits that as the petitioner came to know about registration of the FIR under Section 174A IPC, she approached the Court concerned. The matter was taken in Lok Adalat and the same was settled and complaint itself was dismissed as withdrawn on 04.07.2017.

- 7. Notice of motion to respondent No.1, only.
- 8. Mr. Sumit Jain, Addl. AG, Haryana accepts notice on behalf of respondent No.1- State.
- 9. Learned State counsel could not refute any of the aforesaid contentions, which otherwise are based upon the record of the Court.
- 10. Having considered submissions of learned counsel for the petitioner and also it is apparent from the record that petitioner was never served personally. The proclamation under Section 82 Cr.P.C. has been issued in complete violation of Section 82 Cr.P.C. Petitioner has been declared proclaimed person on 07.04.2014, despite the fact that no proclamation had been effected for that date. As such, the impugned order dated 07.04.2014 (Annexure P-1), the consequent FIR No.518 dated 01.07.2017 under Section 174-A of the IPC (Annexure P-4) registered at Police Station City, Gurugram and all the consequent proceedings arising therefrom are hereby quashed.

(DEEPAK GUPTA)
JUDGE

April 02, 2024
Neetika Tuteja

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