IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-20967-2023
Date of Decision: 18.01.2024
2024: PHHC: 006783

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Vedpal

. . . . Petitioner

Vs.

State of Haryana and another

. . . . Respondents

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CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

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Present: - Mr. Satish Saini, Advocate, for the petitioner.

Mr. Randhir Singh, Addl. A.G., Haryana, for respondent No.1.

Mr. Aakant Kumar Mittal, Advocate, for respondent No.2.

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DEEPAK GUPTA, J.

Reply by way of respondent No.2-complainant has been received through registry along with documents Annexure R1 to R20.

2. By way of this petition filed under Section 482 CrPC, petitioner prayed to quash FIR No.1242 dated 31.12.2022 registered under Section 174A IPC at Police Station Civil Lines, Karnal and all the subsequent proceedings arising therefrom, whereby the petitioner was declared as a proclaimed person, during proceedings of complaint case No.NACT-6497-2018 titled 'Union Bank of India Vs. Vedpal', Judicial Magistrate Ist Class, Karnal.

3. On 27.04.2023, the following order was passed by this Court: -

"Prayer in this petition is to quash FIR No.1242 dated 31.12.2022 registered under Section 174-A of IPC, at Police Station Civil Lines, Karnal and the subsequent proceedings arising therefrom including the order dated 25.11.2022 whereby petitioner was declared proclaimed

person in complaint case No.NACT-6497-2018 titled "Union Bank of India Vs. Vedpal".

It is contended by learned counsel for the petitioner that much prior to the declaration of the petitioner as proclaimed person, he had already cleared all the loans. Learned counsel drawn attention towards "No Due Certificate" (Annexures P.4 and P.5) revealing that petitioner had settled/ closed the loan account on 21.09.2019 and on 05.04.2021 respectively. It is contended that it is the mistake of the complainant- respondent- Bank which did not withdraw the complaint despite assurance given to the petitioner. Learned counsel for the petitioner also placed on record copies of the various zimni orders passed by the trial Court before declaring him as a proclaimed person in order to contend that the petitioner was never served.

Notice of motion for 21.07.2023.

In the meantime, no coercive action shall be taken against the petitioner."

4. Pursuant to the aforesaid order, appearance has been made on behalf of respondent No.2-complainant, who has filed the reply. As is contended by counsel for respondent No.2-complainant, prior to clearing the loans and issuance of the 'no due certificates' Annexure P4 and P5, proclamation proceedings had already been issued against the petitioner due to his non-appearance before this Court.

5. Perusal of the various orders, placed on record by ld. counsel for respondent No.2, would reveal that after recording preliminary evidence, process against the accused-petitioner was issued vide order dated 17.11.2018 (Annexure R1). The various orders passed thereafter would reveal that notice of the complaint was never served upon the accused-petitioner. Summon was stated to have been affixed on 23.11.2019 as per Annexure R5, without any report as to whether petitioner was found to be residing at the given address. Warrants of arrest were directed to be issued and as is evident, till the order dated 22.07.2022 (Annexure R17), warrants of arrest were either received back not served or the

same were received back unexecuted. It is only thereafter that the proclamation was issued and the petitioner was later on declared as proclaimed person.

6. It is further important to notice that though petitioner did not put in appearance in the complaint as he was never served but counsel for the complainant-respondent No.2 was regularly appearing. Despite the fact that petitioner had already cleared all his loans and the respondent-Bank had already issued 'no due certificates' as per Annexures P4 & P5, said fact was not disclosed to the Court concerned and warrants of arrest were issued even thereafter. Later on, the complaint was dismissed as withdrawn only on 13.04.2023 as per Annexure P6.

7. Having regard to all the aforesaid facts and circumstances when petitioner was never served; the fact that before the proclamation proceedings were initiated against him, he had already cleared the loans of the respondent-bank, which had issued the 'no due certificates', continuation of the proceedings of FIR No.1242 dated 31.12.2022 registered under Section 174A IPC at Police Station Civil Lines, Karnal shall result in miscarriage of justice.

8. As such, said FIR and the subsequent proceedings arising therefrom, whereby the petitioner was declared as a proclaimed person, during proceedings of complaint case No. NACT-6497-2018 titled Union Bank of India Vs. Vedpal, are hereby quashed.

Allowed.

(DEEPAK GUPTA)
JUDGE

18.01.2024
Vivek

1. Whether speaking/reasoned? *Yes*
2. Whether reportable? *No*