

S. No.120

2024:PHHC:061361

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

**CRM-M-22068 of 2024
Date of Decision:03.05.2024
.....Petitioner**

**Mohd. Atif Kazmi
Vs.
State of Haryana**

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Nipun Vashist, Advocate for the petitioner.

DEEPAK GUPTA, J. (Oral)

By way of present petition filed under Section 482 Cr.P.C., petitioner prays to quash FIR No.184 dated 12.07.2023 registered under Section 174-A IPC at Police Station Sector-17, Faridabad, District Faridabad.

Learned counsel for the petitioner contends that the petitioner was summoned in a complaint case bearing NACT-3360-2020 titled “M/s V Fast Furances and Technologies Vs. M/s Emirates Extrusion Industries”. As per learned counsel, petitioner was not served personally. Warrants of arrest were issued against him. Thereafter, proclamation under Section 82 Cr.P.C was issued. 30 days’ notice was never served upon, and he had been declared Proclaimed Person vide impugned order dated 12.06.2023 in violation of Section 82 Cr.P.C. Learned counsel further submits that as the petitioner came to know about being declared as Proclaimed Person, he approached the complainant. The matter was compromised and the complainant has withdrawn the complaint in question by making a statement before the Court and then the complaint was dismissed as withdrawn vide order dated 10.04.2024 (Annexure P.13).

Notice of motion.

Mr. Parveen Kumar Aggarwal, DAG, Haryana, accepts notice on behalf of the respondent- State.

Perusal of the paper book would reveal that summoning order was passed against the petitioner to face trial under Section 138 of NI Act on 21.10.2020. Although notice to him sent through email was received back served on 21.05.2022 and so, warrants of arrest were directed to be issued against him. Said warrants of arrest were received back unexecuted. Later on a proclamation under Section 82 Cr.P.C was issued on 03.03.2023 for 13.04.2023. As the proclamation was not received back, so fresh proclamations were directed to be issued on 13.04.2023 for 20.04.2023; then on 20.04.2023 for 03.05.2023 and then on 03.05.2023 for 10.05.2023.

As per order dated 12.06.2023, the proclamation had been received back published on 10.05.2023 and as period of 30 days had elapsed, so, the petitioner was declared Proclaimed Person vide order dated 12.06.2023.

Learned counsel for the petitioner is right in contending that proclamation had been issued on 03.05.2023 for 10.05.2023. There was no proclamation for 12.06.2023, on which date, the petitioner was declared Proclaimed Person whereas on 10.05.2023, for which date, the proclamation was issued, the period of 30 days had not elapsed.

It clearly emerges that petitioner has been declared Proclaimed Person in violation of section 82 Cr.P.C.

Learned State counsel could not refute the afore-said contentions which otherwise are based upon the record of the trial Court.

Having regard to the afore-said facts and circumstances, the order dated 12.06.2023 (Annexure P.12) declaring the petitioner as Proclaimed Person, the consequent FIR No.184 dated 12.07.2023 (Annexure P.1) registered at Police Station Sector 17, Faridabad under Section 174-A IPC and all subsequent proceedings are hereby quashed.

May 03, 2024
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(DEEPAK GUPTA)
JUDGE

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