



283 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-38571-2023
Decided on:-09.05.2024

Suresh Kumar ...Petitioner.
Vs.

State of Haryana ...Respondent..

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Rahul Singla, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

HARKESH MANUJA, J. (Oral)

1. By way of present petition filed under Section 482 Cr.P.C., prayer has been made for setting aside the order dated 29.05.2023 passed by learned Judicial Magistrate Ist Class, Hisar, whereby, the petitioner was declared as proclaimed person as well as for quashing the FIR No.310, dated 13.06.2023, registered under Section 174-A IPC, at Police Station Civil Lines Hisar, Haryana along with all subsequent proceedings arising therefrom.

2. Having been summoned in pursuance to a complaint filed under Section 138 of the Negotiable Instruments Act, 1881 (for short, "NI Act") at the instance of one Mahinder Singh Nain, the petitioner having failed to appear before the trial Court, was declared as proclaimed person vide order dated 29.05.2023, followed by registration of aforesaid FIR against him.

3. Learned counsel for the petitioner submits that the proceedings under Section 82 Cr.P.C. were never proceeded against him in accordance with the mandatory procedure. He further submits that post his declaration as proclaimed person, the petitioner appeared before the trial Court and was

admitted to bail, followed by settlement arrived at between the parties, resulting into withdrawal of the complaint itself vide order dated 21.07.2023 and thus, the proceedings arising out of the FIR in question were misuse of process of law and were wholly unwarranted.

4. On the other hand, prayer made herein has been opposed at the instance of learned State counsel while submitting that the petitioner was declared as proclaimed person vide order dated 29.05.2023, having failed to appear before the trial Court in pursuance to the summoning order and also by following the mandatory provisions of Section 82 Cr.P.C., therefore, the order dated 29.05.2023 as well as the FIR, warrant no interference.

5. I have heard learned counsel for the parties and gone through the paper book.

6. Perusal of record shows that the petitioner was declared as proclaimed person vide order dated 29.05.2023 on the basis of proclamation under Section 82 Cr.P.C., which was effected through EHC Rajbir Singh, Police Station Civil Lines, Hisar. Statement of the Executant Police Officer, EHC Rajbir, is reproduced hereunder for reference:-

“Respected Sir,

The whereabouts of accused-Suresh Kumar, resident of Bhuna (Fatehabad) is not known and that as per the directions of the Court a copy of the notice was affixed on 21.04.2023 at the main chowk of residence of accused-Suresh Kumar son of Charan Dass, R/o Bhuna (Fatehabad) and second copy of the notice was affixed on the notice board of Hissar Court and proclamation of the notice was also done and the third copy (not readable). Report is presented.”

A perusal of the aforesaid statement shows that no details at all were mentioned as to through whom the munadi of the proclamation was

effected by the executant police officer. There was no specific mention in the statement that the proclamation was read over publicly in some conspicuous place of village Bhuna (Fatehabad) where the petitioner ordinarily resided. Moreover, the parties to the complaint under Section 138 of the NI Act, already entered into a settlement, followed by withdrawal of the complaint at the instance of complainant vide order dated 21.07.2023. Besides it, the petitioner even submitted himself to the jurisdiction of the trial Court in the complaint under Section 138 of NI Act and was even admitted to bail, thus, no useful purpose is going to be served by carrying on with the proceedings arising out of the present FIR.

7. Moreover, learned counsel for the petitioner on instructions from his client, submit that he volunteers to deposit a cost of Rs.10,000/- with the Nishkam Sewa Group (For Charitable Work) run by Punjab & Haryana High Court Lawyers at Chandigarh.

8. In view of the discussion above, the present petition is allowed. The order dated 29.05.2023, declaring the petitioner as proclaimed person as well as FIR No.310, dated 13.06.2023, under Section 174-A IPC, registered at Police Station Civil Lines, Hisar, Haryana and all other subsequent proceedings arising therefrom are ordered to be quashed qua the petitioner.

9. The aforesaid order shall be subject to payment of costs of Rs.10,000/- as volunteered by the petitioners, with the Nishkam Sewa Group (For Charitable Work) run by Punjab & Haryana High Court Lawyers at Chandigarh, within a period of two weeks from today from the date of receipt of certified copy of this order.

09.05.2024

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(HARKESH MANUJA)
JUDGE

whether speaking/reasoned: Yes/No
whether reportable: Yes/No