

2024:PHHC:099822



259 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-35022-2019
DECIDED ON: 13.02.2024

PARDEEP

.....PETITIONER

VERSUS

STATE OF HARYANA AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Shivansh Malik, Advocate
for the petitioner.

Mr. Gurbir Singh Dhillon, AAG, Haryana.

Mr. Devender Kumar, Advocate
for respondent No.2.

SANDEEP MOUDGIL, J

1. The jurisdiction of this Court under Section 482 Cr.P.C has been invoked seeking quashing of FIR No. 208, dated 30.06.2019 (Annexure P-2), registered under Section 174-A IPC at Police Station Civil Lines Rohtak and all subsequent proceedings arising therefrom along-with order dated 17.05.2019 (Annexure P-1) vide which the petitioner has been declared proclaimed person in a complaint case bearing CIS No. COMA/1668/2017 titled as **'Mukesh Vs. Pardeep'**, under Section 138 of the Negotiable Instruments Act, 1881.

2. Brief facts of the case are that respondent No.2 filed a complaint under Section 138 of the Negotiable Instruments Act against the petitioner on account of dishonouring of a cheque.

3. During the pendency of the said complaint the petitioner was declared as proclaimed person vide order dated 17.05.2019 (Annexure P-1) and it was also directed to the SHO concerned for taking appropriate action.

4. Pursuant to the said order, the impugned FIR No.208, dated 30.06.2019 (Annexure P-2) was registered against the petitioner.

5. The petitioner's counsel has argued that the petitioner had no knowledge of the proceedings due to lack of service of notice, summons, or warrants upon the petitioner, as incorrect particulars, including the address, father's name as well as mobile number of the petitioner, have been mentioned in the complainant under Section 138 Negotiable Instruments Act, 1881.

6. To support the afore-said assertions, petitioner's counsel has drawn attention of this Court to page 20 of the paper book, wherein it has been reported that residential address mentioned in the notice is wrong.

6. Learned State counsel has vehemently argued that the offence under Section 174-A IPC is independent of the main case, therefore, merely because in the main complainant case the petitioner earned acquittal, the present petition cannot be allowed,

7. Heard.

8. Admittedly, proceedings under Section 82 Cr.P.C. to declare the petitioner proclaimed person were initiated as the petitioner was found

absent on 17.05.2019, which resulted into FIR No. 208, dated 30.06.2019 (Annexure P-2), under Section 174-A IPC. From the report of the process server annexed at page No.20, it is evident that residential address as well as the phone number mentioned in the notice itself were incorrect. This evidence demonstrates that the petitioner was not properly intimated of the PO proceedings initiated against him.

9. It is not in dispute that thereafter the petitioner appeared before the learned trial court and once again granted bail, as pleaded, correctness whereof is not disputed.

10. Now the question which arises before this Court as to whether the proceedings under Section 174-A IPC should be allowed to continue or not?

11. In the considered view of this Court, once the order declaring the petitioner as proclaimed person ceases to exist on account of the fact that he was later on granted bail by the learned trial court and he continued to put in appearance, in such circumstances, the FIR which was registered consequently upon declaring the petitioner as proclaimed person is also required to be closed.

12. Keeping in view the fact that the present FIR was registered only on account of absence from the proceedings in the main case which had been subsequently regularised by the court while granting bail to the petitioner, the default stood condoned. In such circumstances, continuation of proceeding under Section 174-A IPC shall be abuse of the process of court.

13. Accordingly, the petition is allowed. As such, the impugned order dated 17.05.2019 (Annexure P-1) vide which the petitioner has been declared proclaimed person as well as FIR No. 208, dated 30.06.2019 (Annexure P-2), registered under Section 174-A IPC at Police Station Civil Lines Rohtak along-with all subsequent proceedings arising therefrom, stand quashed qua the petitioner.

13.02.2024

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(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>