

SUSHIL KUMAR

Versus

STATE OF HARYANA

.....Petitioner

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Ms. Pallavi Babbar, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

HARKESH MANUJA, J. (ORAL)

By way of present petition filed under Section 482 CrPC, prayer has been made for quashing of FIR No.103 dated 03.05.2022 registered under Section 174-A of IPC at P.S. City Safidon, District Jind.

2. Having been summoned on a complaint under Section 138 of Negotiable Instruments Act, 1881 filed against the petitioner, on account of his non-appearance, petitioner was declared as proclaimed person vide order dated 14.08.2018 followed by registration of FIR in question on 03.05.2022.

3. Impugning the same, learned counsel for the petitioner submits that proceedings under Section 82 of CrPC were never initiated against the petitioner in terms of mandate of procedure laid down under the said statutory provisions besides the matter already having been settled between the parties and complaint under Section 138 of Negotiable Instruments Act also having been withdrawn by the complainant therein and thus, the proceedings arising out of FIR in question are liable to be quashed.

4. On the other hand, learned State counsel vehemently opposes the prayer made herein while submitting that the petitioner, despite having been summoned on account of complaint under Section 138 of Negotiable Instruments Act chose not to present himself before the Court concerned thereby resulting into passing of the order dated 14.08.2018, declaring him as proclaimed person followed by registration of FIR in question and thus, the proceedings warrant no interference.

5. I have heard learned counsel for the parties and gone through the paper-book. I find substance in the submissions made by learned counsel for the appellant.

6. As per the records, the proclamation under Sections 82/83 of CrPC was ordered against the petitioner on 24.04.2018 for 12.06.2018 being the date for appearance, however, on the said date, the matter was adjourned to 14.08.2018 when on account of non-appearance of the petitioner she was declared as proclaimed person. Once, proclamation under Sections 82/83 of CrPC was issued against the petitioner for putting in appearance on 12.06.2018, his declaration as proclamation person on 14.08.2018, in absence of there being any proclamation for the said date was wholly vitiated. Moreover, in the order dated 14.08.2018, it has nowhere been mentioned by the learned Court below as to on which date, the proclamation under Sections 82/83 of CrPC was effected. In addition, the complaint under Section 138 of Negotiable Instrument Act filed against the petitioner already stands withdrawn as per order dated 27.07.2023 passed by the Court of learned Judicial Magistrate First Class , Safidon.

7. Accordingly, in view of the discussions made hereinabove, the present petition is allowed and impugned order dated 14.08.2018 as well as consequential proceedings resulting into registration of FIR No.103 dated 03.05.2022 are hereby quashed. The aforesaid order shall however be subject to payment of costs of Rs.5,000/- to be deposited with Poor Patients’ Welfare Fund, PGIMER, Chandigarh.

05.03.2024

Tejwinder

(HARKESH MANUJA)
JUDGE

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

