



CRM-M-42990-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(134)

CRM-M-42990-2024
Date of Decision : 23.09.2024

Sukhchain Chand ...Petitioner

Versus

State of Punjab and others ...Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Vivek K. Thakur, Advocate
for the petitioner.

Mr. Pardeep Bajaj, DAG, Punjab.

Ms. Vaishali Thakur, Advocate
for LR's of respondent No.2.

KULDEEP TIWARI, J.(ORAL)

1. Through the instant petition, filed under Section 528 of BNSS, 2023, a prayer is made for quashing of the complaint bearing No.NACT/2115/2013 (Annexure P-1), under Section 138 of the Negotiable Instruments Act, 1881, and subsequent proceedings arising therefrom, as well as the order dated 03.10.2016 (Annexure P-6), passed by the learned Judicial Magistrate, Ist Class, Phillaur, whereby, the petitioner has been declared as a proclaimed person, on account of his non-appearance, despite issuance of the proclamation under Section 82 of Cr.P.C., especially, when the matter has been amicably settled between the parties.

2. Learned counsel for the petitioner, has placed on record the certified copy of order dated 09.09.2024, passed by the Judicial Magistrate,

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Ist Class, Phillaur, today in the Court. The same is taken on record as Annexure-A.

3. Learned counsel for the petitioner, at the very outset, while referring to the order dated 09.09.2024, submits that the complainant has already died and the complaint, under Section 138 of the Negotiable Instruments Act, 1881, stands withdrawn by the LRs of the complainant, as the matter has been amicably settled between the parties concerned. Therefore, the first prayer made in the instant petition has rendered infructuous.

4. So far as, the second prayer is concerned, he submits that in the instant case, the proclamation was effected on dated 11.09.2016, and the petitioner was declared proclaimed offender on dated 03.10.2016, i.e. without completion of statutory notice period of thirty days.

5. Notice of motion.

6. Mr. Pardeep Bajaj, DAG, Punjab, waives service and accepts notice on behalf of the State of Punjab, whereas, Ms. Vaishali Thakur, Advocate, has caused appearance on behalf of the LRs of respondent No.2, through validly executed power of attorney, in their favour, today in the Court. The same is taken on record.

7. This Court, has heard the learned counsel for the parties concerned, and has perused the relevant material on record.

8. Learned counsel appearing on behalf of the LRs of respondent No.2, admits the factum of compromise. Perusal of the zimini order dated 12.09.2016 (Annexure P-5), clearly reflects that the proclamation was effected on 11.09.2016, whereas, vide the impugned order dated 03.10.2016, the petitioner was declared as a proclaimed person, therefore, the statutory



period of 30 days has not elapsed, from the date of issuance of the proclamation.

9. The Hon’ble Supreme Court in *Shakuntla Sawhney (Mrs) Vs. Kaushalya (Mrs.) and others (1980) 1 SCC 63*, speaking through Justice V.R. Krishna Iyer, has held as under:-

“4.*The finest hour of justice arrives propitiously when parties, despite falling apart, bury the hatchet and weave a sense of fellowship or reunion.....*”

10. Be that as it may, keeping in view the fact that, the matter has been amicably settled between the parties, and the complaint has already been withdrawn by the LR’s of the complainant, and in view of the Annexure-A, the instant petition is **allowed**, and the proclamation order dated 03.10.2016 (Annexure P-6), passed by the learned Judicial Magistrate, Ist Class, Phillaur, is hereby, **quashed**.

(KULDEEP TIWARI)
JUDGE

September 23, 2024
Manpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No