

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

CRM-M-48103-2023 (O&M)

Date of Decision: 28.02.2024

2024:PHHC: 028363

LALIT @ LALIT KUMAR

. . . . PETITIONER

Vs.

STATE OF HARYANA AND ANOTHER

. . . . RESPONDENTS

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Ms. Manisha Nehra, Advocate, for the petitioner.

DEEPAK GUPTA, J.

CRM-7816-2024

This is an application moved by the applicant/petitioner to place on record copy of the bail bonds furnished on 18/19.05.2020 as Annexure P12.

Application is allowed.

Annexure P12 is taken on record.

CRM-M-48103-2023

By way of this petition filed under Section 482 CrPC, prayer is made to quash impugned order dated 11.07.2019 (Annexure P3) declaring the petitioner as proclaimed person by the trial Court (*in criminal Complaint titled 'Radhika Vs. Lalit Kumar' bearing filing No.9835 of 2017*); and the subsequent order dated 17.04.2023 (Annexure P7), whereby petitioner was declared proclaimed person in case FIR No.103 dated 20.03.2020 registered at Police Station, Hisar Civil Lines, Hisar, under Section 174A IPC; and further to quash another FIR No.472 dated 07.08.2023 also registered at Police Station, Hisar Civil Lines, Hisar, under

Section 174A IPC.

2. The sequence of events is as under: -

- (i) Criminal Complaint titled 'M/s Radhika Marketing Vs. Lalit Kumar', under Section 138 of the Negotiable Instruments Act, 1881 [for short 'the NI Act'] was filed against petitioner Lalit in the Court of Id. JMIC Hisar, in which petitioner was summoned for 13.11.2017 vide an order dated 30.08.2017 (Annexure P10).
- (ii) Petitioner failed to appear despite his service through his brother, due to which warrants of arrest and then the proclamation was issued against him. The same failed to procure his presence. Vide an order dated 07.03.2019 (*available at Page No.56 of the paper-book*), Id. JMIC directed issuance of the proclamation under Section 82 of the CrPC against the petitioner – accused for 11.07.2019. The serving constable was directed to report about the proclamation on 11.06.2019. As per the statement of serving Constable Pawan Kumar recorded on 11.06.2019, the proclamation had been published against the accused-petitioner Lalit for 11.07.2019. Since petitioner failed to appear on the date fixed for appearance/surrender i.e., 11.07.2019, therefore, he was declared proclaimed person on that day.
- (iii) Pursuant to the order of the Court, FIR No.103 dated 20.03.2020 (Annexure P4) was registered against the petitioner at Police Station, Hisar Civil Lines, Hisar, under Section 174A IPC.

- (iv) In the aforesaid case i.e. FIR No.103 of 2020, petitioner was arrested on 18.05.2020 and was produced before the Court of Id. JMIC, Hisar. He was admitted to bail on the same day vide order dated 18.05.2020 (Annexure P5).
- (v) The main complaint titled 'Radhika Vs. Lalit Kumar' under Section 138 of the NI Act was dismissed as withdrawn vide order dated 20.05.2020 (Annexure P6) on account of compromise having been effected between the parties.
- (vi) Criminal proceedings in case FIR No.103 of 2020 were still going on. Challan in that case was presented on 08.06.2020. Petitioner-accused Lalit absented from the trial. As per order dated 03.12.2020, matter was adjourned to 15.03.2021 by the Court at its own due to outbreak of Covid-19 and accused was directed to be intimated accordingly. However, accused-petitioner did not appear on 15.03.2021 and so, his bail was cancelled and bonds were forfeited. Repeated warrants of arrest failed to procure his presence and ultimately, proclamation under Section 82 CrPC was directed to be issued against him vide order dated 02.02.2023 (*copy available at page No.75 of the paperbook*). Said proclamation was directed to be issued for 17.04.2023 and the serving official was directed to report in the Court on 09.03.2023 to make statement in respect of publication of proclamation. Statement of executing official/EASI Prabhu Ram was recorded on 09.03.2023, who proved the effecting of the proclamation for 17.04.2023.

(vii) As petitioner failed to turn up on 17.04.2023, i.e. the date for his surrender/appearance, so he was declared proclaimed person on that day. Pursuant to the direction of the Court, fresh FIR No.472 dated 07.08.2023 was registered against him at Police Station, Hisar Civil Lines, Hisar, under Section 174A IPC.

3. Challenging all the aforesaid proceedings, it is contended by ld. counsel for the petitioner that petitioner had purchased a Samsung 32” LED TV from the shop of M/s Radhika Marketing through Bajaj Finance card. He had made full and final payment. NOC had been issued. However, the complainant initially did not withdraw the complaint filed under Section 138 of the NI Act and that he was wrongly declared proclaimed person on 11.07.2019. Ld. counsel further contends that after he was arrested on 18.05.2020 in case FIR No.103 dated 20.03.2020 and was allowed bail, he was regularly appearing. The main complaint was dismissed as withdrawn on 20.05.2020. Petitioner had engaged a counsel to appear in the criminal case. Petitioner himself was working at Rewari. On 17.04.2023, counsel for the petitioner failed to appear before the Court concerned due to which warrant of attachment of his property was issued and that he was declared proclaimed person on that day. Ld. counsel for the petitioner contends that petitioner is ready to surrender before the trial Court and that impugned orders be set aside.

4. Specific query was put to ld. counsel as to whether proclamation under Section 82 CrPC had been published at the address provided by the petitioner in the bonds as furnished in case FIR No.103/2020. Ld. counsel for the petitioner placed on record copy of the

bond as Annexure P12 revealing that in the said bonds, petitioner had provided his addresses of VPO Kirmana, Distt. Hisar. Ld. counsel concedes the fact proclamation was effected at the same address. Ld. counsel also concedes the fact that the Court was never informed about the fact that petitioner was working in Rewari.

5. In view of all the aforesaid facts and circumstances, when the petitioner has been declared proclaimed person twice, after making compliance of all the provisions of Section 82 of the CrPC, this Court does not find any justification so as to quash the order dated 11.07.2019 (Annexure P3), whereby petitioner was declared proclaimed person in criminal Complaint titled ‘Radhika Vs. Lalit’; or the subsequent order dated 17.04.2023 (Annexure P7), whereby petitioner was declared as proclaimed person in case FIR No.103 dated 20.03.2020 registered at Police Station, Hisar Civil Lines, Hisar, under Section 174A IPC; or the another FIR No.472 dated 07.08.2023 registered at Police Station, Hisar Civil Lines, Hisar, under Section 174A IPC. Ld. counsel for the petitioner could not point out violation of any of the conditions as mentioned in Section 82 CrPC.

6. In view of the above, finding no merit in the present petition, the same is hereby dismissed.

28.02.2024
Vivek

(DEEPAK GUPTA)
JUDGE

Whether speaking/reasoned? : Yes
Whether reportable? : Yes