

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

122

CRM-M No.51173 of 2022

Date of Decision: 16.02.2024

VIJAY KALRA

.....Petitioner

Vs

STATE OF HARYANA

....Respondent

CORAM: *HON'BLE MR. JUSTICE HARKESH MANUJA*Present: Mr. R. Kartikya, Advocate
for the petitioner.

Mr. Gurmeet Singh, Asstt. A.G., Haryana.

HARKESH MANUJA, J. (Oral)

[1]. By way of present petition filed under Section 482 Cr.P.C., prayer has been made for quashing of FIR No.515 dated 01.07.2022 registered under Section 174-A IPC at Police Station Hisar City, District Hisar (Annexure P-1) along with all subsequent proceedings arising therefrom.

[2]. Having been arrayed as an accused, petitioner was summoned under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter to be referred as 'the N.I. Act') in the complaint filed at the instance of the complainant. On account of non-appearance of petitioner, proceedings under Section 82 Cr.P.C. were ordered against him and as a consequence thereof, he was declared as proclaimed person vide order dated 19.05.2022 passed by the Judicial Magistrate Ist Class, Hisar, followed by registration of FIR No.515 dated 01.07.2022 under Section 174-A IPC against him.

[3]. Impugning the aforementioned order dated 19.05.2022 as well as FIR No.515 dated 01.07.2022, learned counsel for the petitioner submits that the proceedings under Section 82 Cr.P.C., which resulted in registration of FIR in question were wholly in violation of mandate of the statutory provision, thus the same are liable to be quashed.

[4]. On the other hand, learned State counsel vehemently opposed the prayer made on behalf of the petitioner while submitting that the petitioner despite having knowledge about the pendency of the proceedings arising out of the complaint under Section 138 of the N.I. Act, deliberately chose not to present himself before the Court concerned, thus, the order for registration of FIR in question warrants no interference.

[4]. I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the petitioner.

[5]. In the compliant under Section 138 of the N.I. Act, vide order dated 15.03.2022 passed by the Judicial Magistrate Ist Class, Hisar, proclamation under Section 82 Cr.P.C. was ordered against the petitioner for 19.05.2022. On the said date, on account of non-appearance of the petitioner, he was declared as proclaimed person. The said order dated 19.05.2022 was based on the statement made by the executant/police official as regards publication of notice under Section 82 Cr.P.C. The statement of the executant/police official is reproduced as under:-

“Statement of Ct. Satyawan Singh 1387 HSR City Thana Hisar

Sir,

For service of proclamation notice the house of the accused Vijay Kumar S/o Sh. Hari Chand, resident of House no.1438, Sector 14, Hisar, Hisar was raided on 22.3.22, however the accused was not found at home. A copy of the notice was published outside the house of the accused at a conspicuous place and munadi was carried. A copy of the notice was also

pasted on the notice board of this Hon'ble Court and third copy of the report is presented.

*RO/AC
CT Satyawar
1387 HSR
Hisar"*

*Sd/-
JMHC/Hisar*

[6]. Perusal of the aforesaid statement shows that munadi was affected qua the proclamation under Section 82 Cr.P.C., however no further details as regards the person who carried out the munadi; as to how much amount was spent thereupon besides the place of effecting munadi has been detailed in the statement, which raises serious doubt about the factum of effecting of munadi and the same, thus leads to an inference regarding non-compliance of mandate of Section 82(2)(i)(a) Cr.P.C.; and accordingly the order dated 19.05.2022 whereby the petitioner was declared as proclaimed person cannot be sustained.

[7]. It may be pointed out that in terms of the FIR in question, the petitioner has already submitted himself to the jurisdiction of the Court and even was granted the benefit of anticipatory bail vide order dated 29.07.2022 passed by Addl. Sessions Judge, Hisar and in furtherance thereof has even appeared before the Court concerned in the proceeding arising out of Section 138 of the N.I. Act and is continuously appearing therein.

[8]. Accordingly, in view of discussion made hereinabove, once the order declaring the petitioner as proclaimed person is held to be in violation of mandate of Section 82 Cr.P.C., subsequent proceedings arising therefrom, including the FIR in question cannot be sustained.

[9]. Resultantly the order dated 19.05.2022 passed by the Judicial Magistrate Ist Class, Hisar, declaring petitioner as proclaimed person is set aside.

Consequently, the FIR No.515 dated 01.07.2022 registered under Section 174-A

IPC at Police Station Hisar City, District Hisar along with all consequential proceedings arising therefrom are also quashed.

February 16, 2024

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(HARKESH MANUJA)
JUDGE

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