



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

CRM-M-51472-2024

Date of Decision : 05.12.2024

M/S JAIN RICE MILL

.....Petitioner

VERSUS

STATE OF PUNJAB AND ANOTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Veenet Sharma, Advocate,
for the petitioner.

Mr.Pardeep Bajaj, DAG, Punjab.

KULDEEP TIWARI. J.(Oral)

1. Through the instant petition, cast under Section 528 of the B.N.S.S., prayer is made for quashing of the order dated 27.09.2013 (Annexure P-12), whereby, the learned Judicial Magistrate First Class, Amritsar, has declared the petitioner a “Proclaimed Person”, in Complaint No.3578/2013, filed under Section 138 of the Negotiable Instruments Act.

2. In his beseeching the relief (*supra*), the principal argument composed by the learned counsel for the petitioner, is that, since the mandate enclosed in Section 82 of the Cr.P.C. did not become meticulously complied with by the learned Magistrate concerned, inasmuch as, the requisite period of 30 days was not provided to the

petitioner to cause appearance in pursuance to the proclamation, as became issued against him vide order dated 06.08.2013, therefore, the learned Magistrate erred in drawing the impugned order.

3. Nonetheless, the learned counsel for the petitioner also submits that, in case adequate protection is granted to the petitioner, he is ready and willing to, within fifteen days from today, cause appearance before the learned trial Court/Magistrate concerned and to file a regular bail application.

4. In view of the submissions made by learned counsel for the petitioner this Court vide order dated 04.11.2024, directed the petitioner to surrender before the learned trial court concerned, within 15 days, and in case the petitioner causes appearance and files a regular bail application, the latter concerned was directed to decide the same on the same very day, by giving opportunity of hearing to the opposite party.

5. This Court also imposed a cost of Rs.50,000/- upon the petitioner, considering the fact that the order declaring the petitioner as a proclaimed person, was passed way back in the year 2013.

6. It is informed to this Court that in deference to this direction issued by this Court vide order (*supra*), not only the petitioner caused appearance before the learned trial court concerned, within the stipulated time period, but also deposited the cost of Rs.50,000/-, as imposed by this Court.

7. Learned counsel for the petitioner submits that there is a clear defect in the impugned order (*supra*), as the required period of 30

days was not provided to the petitioner to cause appearance in pursuance to the proclamation order as issued on dated 06.08.2013.

8. This Court has heard learned counsel for the parties concerned, and also examined the validity of the impugned order (*supra*).

9. A perusal of the *zimni* orders reveals that the present petitioner was ordered to be summoned through proclamation warrants for 30.08.2013, by the learned trial court concerned, vide order dated 06.08.2013. On 30.08.2013, the proclamation warrants received back executed and the statement of the serving official was also recorded to this effect. However, considering the fact that since statutory period of 30 days has not elapsed, the matter was adjourned for 27.09.2013 for awaiting appearance of the petitioner (accused). Consequently, on account of non-appearance of the present petitioner on dated 27.09.2013, he was declared as proclaimed person by the learned trial court concerned.

10. Keeping in view the above factual position, this Court considers that the submission, as made by learned counsel for the petitioner, bears merits. Therefore, the order (*supra*), as impugned before this Court requires interference of this Court, especially, considering the fact that the petitioner has now appeared before the learned trial court concerned, and the basic purpose of securing the presence to the petitioner, to make him to face the trial, has been achieved. Hence, this Court deems it appropriate to **allow** the instant petition.

11. Resultantly, the impugned order 27.09.2013 (Annexure P-12), and all the subsequent proceedings arising therefrom, are, hereby, **quashed** *qua* the present petitioner.

12. All pending application(s), if any, also stand **disposed** of accordingly.

December 05, 2024
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No