



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

CRM-M No.54935 of 2024 (O&M)

Date of Decision: 06.11.2024

Satinder Pal Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Mohit Vashishat, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (ORAL)

CRM-43717-2024

Allowed as prayed for.

CRM-M-54935-2024

1. Present petition has been filed praying for quashing of complaint i.e. NACT No.2549 of 2022 dated April 08, 2022 (Annexure P-1) and the summoning order dated May 30, 2023 (Annexure P-2) as well as impugned order dated August 21, 2024 (Annexure P-11) passed by the learned JMIC, Chandigarh whereby the petitioner has been declared as proclaimed person (wrongly taken as proclaimed offender) in NACT No.2549 of 2022. Further prayer has been made for staying the arrest and proceedings in the complaint during the pendency of the present petition.

2. After arguing for some time, learned counsel for the petitioner has very fairly submitted that he withdraw this petition *qua* his



prayer for quashing of complaint bearing No. NACT No.2549 of 2022 (Annexure P-1) and summoning order dated 30.05.2023 (Annexure P-2) as he is ready to appear before the Court and take all his pleas as available to him before the learned trial Court in accordance with law. He however has submitted that he has been illegally declared as proclaimed person. He has submitted that the petitioner was prosecuted in the complaint filed under Section 138 of the Negotiable Instruments Act. He has submitted that the cheque in question was issued on behalf of the proprietor ship firm i.e. Smarb Creations through its proprietor and the petitioner, who was working as Sales Representative at that time in the said firm had no power to sign any cheque nor he was authorized to do so. He has submitted that the petitioner had also resigned from the company. He has submitted that the petitioner has not signed the cheque in question and he has no concern with the firm. He has further submitted that on the date of issuance of the cheque, the petitioner was neither having any association with the firm nor he was the account holder. He has submitted that the petitioner never received any notice nor he was aware about the mischievous acts used by respondent No.2. He has submitted that the petitioner came to know about the PO proceedings when the police officials raided his house that he was declared proclaimed person by the learned trial Court. He has submitted that absence of the petitioner was neither intentional nor willful. He has thus fairly submitted that the petitioner is ready to appear before the trial Court where the complaint is now pending.



3. Notice of motion to official respondent No.1 only at this stage.

4. On the asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab appears and accepts notice on behalf of respondent No.1-State. He on the other hand contends that the petitioner was rightly declared as proclaimed person and he is liable to be prosecuted in the said case, as he had failed to appear in the Court despite orders.

5. I have heard counsel for the parties and perused the record.

6. It is apparent that the present complaint was filed by the complainant under Section 138 of the Negotiable Instruments Act in which the petitioner was declared as proclaimed person in the proceedings under the Negotiable Instruments Act due to dishonor of the cheque. However the petitioner has never received any notice as alleged nor he was already aware about the proceedings of the present cases. Taking into consideration the controversy involved in the present case, this Court is of the opinion that the present case can be disposed of at this stage without issuance of notice to the opposite party as the petitioner was allegedly never served in the complaint nor was aware about the proceedings/proclamation issued against him. So, keeping in view the above-said facts when the petitioner is ready to join the main proceedings, continuation of these proceedings shall be an abuse of the process of the Court.

7. Consequently, the impugned order dated 21.08.2024 (Annexure P-11) passed by the learned Judicial Magistrate First Class,

Chandigarh vide which the petitioner has been declared as proclaimed person in complaint filed under Section 138 of Negotiable Instruments Act titled as Gurpal Singh Sidhu vs. Smarb Homes Pvt. Ltd. and others numbered as 2549/2022 dated 08.04.2022 along with consequential proceedings arising out of the same, is hereby set aside subject to payment of costs of Rs.10,000/- to be paid by the petitioner to the complainant within 10 days from today.

8. The petitioner is directed to appear before the Court of learned Judicial Magistrate Ist Class, Chandigarh within a period of 10 days from today and file an appropriate application along with cost of Rs.10,000/- and the learned Judicial Magistrate Ist Class, Chandigarh will admit him to bail during the pendency of the complaint and proceed with the complaint as per law. Thereafter notice be issued to the complainant and on his appearance, amount of Rs.10,000/- awarded as costs shall be paid to him forthwith. The petitioner will have protection from arrest in the present case for a period of 10 days.

9. Needless to say that in case the petitioner fails to pay the cost and comply with the aforesaid direction, the order under challenge dated 22.10.2024 would come in force and the present petition would be deemed to have been dismissed.

10. Disposed of.

06.11.2024

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(RAJESH BHARDWAJ)

JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No