

277 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-58291-2023

Date of decision: 07.02.2024

BISHAM KUMAR SHARMA ALIAS BHISHAM KUMAR SHARMA
...Petitioner

V/s

M/S SAFE MIX ENTERPRISES
...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Neeraj Yadav, Advocate
for the petitioner.

HARPREET SINGH BRAR J. (ORAL)

1. Prayer in the present petition filed under Section 482 of Cr.P.C. is for quashing of the order dated 07.11.2023 (Annexure P-4) passed by learned Judicial Magistrate Ist Class, Chandigarh in complaint No. NACT/4791/2022 titled as *M/s Safe Mix Enterprises Vs. M/s. Sunstate Solar System* under Section 138 of Netogiable Instruments Act 1881 (Annexure P-2) whereby the petitioner has been declared as proclaimed person.

2. On 20.11.2023, following order was passed:

“Prayer in the present petition filed under Section 482 of Cr.P.C. is for quashing of the order dated 07.11.2023 (Annexure P-4) passed by learned Judicial Magistrate Ist Class, Chandigarh in complaint No. NACT/4791/2022 titled as M/s Safe Mix Enterprises Vs. M/s. Sunstate Solar System under Section 138 of Netogiable Instruments Act 1881 (Annexure P-2) whereby the petitioner has been declared as proclaimed person.

Learned counsel for the petitioner submits that petitioner was never served in this case and the proclamation was not published in accordance with the provisions of Section 82 Cr.P.C. It is further submitted that petitioner is resident of House No. 6-B and not of House No. 6-A, which is on a different floor, as given in the complaint. The offence under Section 138 of the Act (supra) is bailable. Petitioner had no intention to evade the due process of law and is ready to join the proceedings and contest/settle the main issue.

Notice of motion returnable for 07.02.2024.

In the meantime, operation of impugned order dated 07.11.2023 (Annexure P-4) is stayed till the next date.

The petitioner is directed to appear and surrender before the trial Court on or before 16.12.2023.

Needless to observe that in case the petitioner fails to comply with the above said direction, the interim order granted herein above shall cease to exist.”

3. In compliance of the aforesaid order, the petitioner has surrendered before learned Judicial Magistrate Ist Class, Chandigarh on 14.12.2023 and has been admitted to regular bail on furnishing bail bonds and surety bonds.
4. In view of the above, the impugned order dated 07.11.2023 (Annexure P-4), vide which the petitioner was declared as proclaimed person, is hereby set aside and the petitioner stands disposed of accordingly.

(HARPREET SINGH BRAR)
JUDGE

07.02.2024

Ajay Goswami

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