

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-59882-2023
Reserved on: 21.10.2024
Pronounced on: 29.10.2024

M/s Biswakarma Furniture ...Petitioner

Versus

UT Chandigarh and another ...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sahil Goel, Advocate
for the petitioner.

Mr. Sidakmeet Sandhu, Addl. P.P., UT, Chandigarh.

None for respondent No.2.

ANOOP CHITKARA, J.

Criminal Complaint	No. 9025 of 2019, under Section 138/142 of the Negotiable Instruments Act, District Chandigarh
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1. Challenging the order of proclamation on being declared as a proclaimed offender, the petitioner has come up before this court under section 482 CrPC, 1973.
2. The petitioner seeks to quash the proclamation order dated 25-05-2023 (Annexure -2).
3. Counsel appearing for the State has strenuously opposed this petition, including the limited relief as confined by the petitioner.
4. The petitioner was on bail earlier because the offense was bailable. However, due to non-appearance, the bail was canceled.
5. The entire dispute is settled, as shown by the letter dated 27-03-2024 issued by the complainant.
6. Analyzing the submissions and the petition would lead to the following outcome. It remains undisputed that when the petitioner got to know about his being declared a proclaimed offender, he took a legal remedy and came up before this Court. It also remains undisputed that it never happened that police officials caught him or tried to run away to avoid an appearance in Court. It also remains undisputed that the petitioner is a

shopkeeper, and, as such, he would have a permanent place of business; despite this, the police could not serve him. In such a situation, the petitioner has proved his case by a preponderance of probabilities and has prima facie established that his non-appearance was beyond his control. Although there is a massive delay in proclamation proceedings, which have been pending for long, the petitioner on their own came before this Court, undertaking to attend the trial, and it is not the police who have been able to arrest.

7. Let the petitioner attend the trial because the criminal justice system must not hamper and suffer because of the petitioner.

8. The primary object of the service is to secure the accused's presence at trial. The petitioner approached this court independently, establishing the bonafide at this stage. Without commenting on the case's merits, and in the facts and circumstances peculiar to this case, and also for the reasons mentioned above, the ends of justice would meet if the impugned proclamation order is quashed qua the petitioner. Thus, exercising the inherent powers under section 482 CrPC, it would be appropriate to grant the following limited relief to the petitioner, subject to the compliance of the conditions mentioned in this order.

9. The State's counsel submitted that if this Court is granting any concession to the petitioner, it must be subject to some reprimand. The petitioner's counsel declared that if this court imposes reasonable and affordable costs, the petitioner shall deposit the same.

10. Given above, the petitioner shall deposit rupees Ten thousand in the PGI Poor Patients Welfare fund by the next date.

11. The petitioner is directed to surrender before the concerned court **on or before 10.11.2024, 11 AM**. On or before this date, if the petitioner files bail application(s) in the case(s) mentioned at the beginning of this order before the concerned Court. Since the primary offense is bailable, this court requests the concerned trial court to grant bail to the petitioner on surrendering before the concerned Court.

12. There shall be a stay of the petitioner's arrest in the case mentioned till the date mentioned above before the concerned trial Court. As mentioned above, this stay is subject to the petitioner's surrender, failing which this protection shall also be recalled. It is clarified that if the petitioner appears before the concerned court, then all warrants issued by the concerned court against the petitioner in the matter mentioned above shall automatically stand recalled and canceled.

13. It is clarified that if the petitioner fails to appear before the concerned Court within the time limit mentioned in this order, then this order shall be recalled automatically

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under section 362, read with 482 CrPC/ 403 read with 528 of BNSS, 2023, without any further reference to this court.

14. It is clarified that this order shall not be construed as an order of bail for which liberty is reserved to file before the appropriate Court if needed.

15. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

16. *A certified copy of this order would not be needed, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the concerned court/ officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.*

The petition is partly allowed to the extent mentioned above. All pending applications, if any, stand disposed of. Liberty reserved to raise the given-up relief(s) in the subsequent petition(s) if the need arises.

(ANOOP CHITKARA)
JUDGE

29.10.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: NO.