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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-57997-2024

Date of Decision : 21.11.2024

Jasvir Kaur

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Deepak Aggarwal, Advocate
for the petitioner

Mr. Rubal Pawar, DAG Punjab

KIRTI SINGH, J.(Oral)

The present petition has been filed under Section 528 of BNSS, 2023 for quashing of the impugned order dated 10.08.2023 whereby the petitioner has been wrongly declared as proclaimed person by the learned Court of JMIC, Bathinda in complaint case dated 08.06.2021 bearing No.NACT 903 of 2023 filed under Section 138 of the Negotiable Instruments Act, 1881 titled as 'Guru Nanak Feed Company Vs. Jasvir Kaur.

2. Learned counsel for the petitioner submits that the petitioner was summoned in above stated case passed by the Court of learned JMIC, Bathinda vide order dated 20.09.2021. Vide order dated 11.01.2022, learned trial Court directed the complainant to furnish correct address of the accused-petitioner.

Further on various occasions the complainant was directed to furnish correct and complete address and vide order dated 29.07.2022, learned trial Court issued fresh

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summons to the accused petitioner, however, same were received back due to want of correct address. Further, the trial Court vide order dated 27.01.2023 again issued non-bailable warrants after the complainant furnished a new address and the case was adjourned for 20.04.2023. Learned trial Court vide order dated 20.04.2023, while observing that the petitioner-accused is intentionally evading execution of warrants to prolong the trial, issued proclamation under Section 82 Cr.P.C. and vide impugned order dated 10.08.2023, he was declared as proclaimed offender. He contends that the complainant did not furnish the correct address despite various opportunities granted and the trial Court has erred while observing that it is the petitioner-accused who is evading the trial without considering the conduct of the complainant and previous orders.

3. Notice of motion to the official respondents at this stage.
4. At asking of the Court, Mr. Rubal Pawar, AAG Punjab accepts notice on behalf of respondent No.1-State and waives service. He opposed the petition and submits that the impugned order has rightly been passed by the trial Court.
5. Heard the rival submissions made by learned counsel for the parties.
6. The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remains present before the Court to receive the orders and punishments as are passed qua the accused. If the accused shows her sincere intention and desire to appear before the Court, then it would not be unjustified to protect her from being arrested.
7. On hearing learned counsel for the petitioners and perusing the record, it is apparent that the petitioner was not aware about the proclamation issued against her. The petitioner is ready to appear before the trial Court and face the



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8. This Court finds that no useful purpose will be served by sending the petitioner in custody and now he is ready to join the proceedings.

9. In view of the above, the present petition is allowed and order dated 10.08.2023 is hereby set aside **subject to payment of cost of Rs.10,000/- by the petitioner to be deposited with the Poor Patient Welfare Fund, PGIMER Chandigarh** within a period of 15 days from today. The petitioner after depositing the cost as stated above would appear before the trial Court concerned on the next date fixed and file appropriate application along with receipt of payment of cost. The trial Court would release the petitioner on furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Illaq Magistrate. No coercive action would be taken against her till the next date of hearing. In case, the petitioner failed to appear before the trial Court on the next date fixed or failed to deposit the cost as stated above, this order would be of no avail to petitioner.

10. Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

21.11.2024
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Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No