

CRM-M-63227-2023

270 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-63227-2023

Decided on:-22.02.2024

Arun Bansal @ Arun Kumar Bansal

...Petitioner.

Vs.

Nikhil Aggarwal

...Respondent..

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sanjiv Gupta, Advocate for the petitioner.

Mr. Kushager Goyal, Advocate for the respondent.

HARKESH MANUJA, J. (Oral)

1. By way of present petition filed under Section 482 Cr.P.C., prayer has been made for quashing the order dated 28.04.2023 (Annexure P-4) passed by the Court of Judicial Magistrate Ist Class, Sirsa, whereby the petitioner was ordered to be declared as proclaimed person, followed by registration of FIR under Section 174-A IPC against him.

2. Having been summoned vide order dated 16.05.2022, in a complaint filed under Section 138 of the Negotiable Instrument Act, 1881 (for short, "NI Act") moved at the instance of respondent-complainant, the petitioner was declared as proclaimed person vide order dated 28.04.2023.

3. Impugning the aforesaid order, learned counsel for the petitioner submits that the proceedings were carried out in violation of mandate of Section 82 Cr.P.C. as no clear cut period of 30 days was afforded to him for appearance from the date of effecting of proclamation, which was done on 10.04.2023 and thus, the entire proceedings were vitiated.

Learned counsel further submits that in compliance of order dated

18.12.2023, the petitioner has already put in appearance before the court

concerned and also undertakes to appear regularly on each and every date of hearing unless his personal appearance is specifically exempted by the Court.

3. On the other hand, learned counsel representing the respondent vehemently opposes the prayer made on behalf of the petitioner while submitting that despite having served through *whatsapp* and having knowledge about the pendency of the proceedings, he deliberately chose not to appear before the Court concerned with a purpose to delay the proceedings, thus, the impugned order warrants no interference.

4. I have heard learned counsel for the parties and gone through the paper book.

5. A perusal of impugned order shows that the proclamation under Section 82 Cr.P.C. was effected on 10.04.2023 and the order declaring the petitioner as proclaimed person was passed on 28.04.2023, which apparently fell short of statutory period of 30 days as prescribed under Section 82 Cr.P.C. and thus, the order dated 28.04.2023 is unsustainable. Moreover, in compliance of order dated 18.12.2023, the petitioner has already appeared before the court concerned on 23.12.2023 and was released on bail.

6. Accordingly, the present petition is allowed. Orders dated 28.04.2023 and 20.02.2023 are ordered to be quashed qua the petitioner, subject to payment of costs of Rs.15,000/- to be paid to the respondent-complainant at the time of appearance before the trial Court.

22.02.2024

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(HARKESH MANUJA)
JUDGE

whether speaking/reasoned: Yes/No
whether reportable: Yes/No