

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-64725-2023

Date of Decision: 14.2.2024

Sher Mohd.

....Petitioner

VERSUS

State of Haryana and another

....Respondents

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Devender Kumar, Advocate,
for the petitioner.

Mr. Neeraj Sheoran, DAG, Haryana

KARAMJIT SINGH, J. (Oral)

Present petition has been filed by the petitioner seeking quashing of impugned order dated 21.9.2023 (Annexure P-2) passed by the Court of Sub Divisional Judicial Magistrate, Punhana, vide which, the petitioner has been declared proclaimed person in criminal complaint No.NACT 24 of 2017 dated 7.4.2017 titled Mubeen v. Sher Mohammad (Annexure P-1) filed under Section 138 of Negotiable Instruments Act along with all the subsequent proceedings arising thereof.

2. Brief facts of the case are that respondent No.2-Mubeen filed the aforesaid criminal complaint against the petitioner under Section 138 of Negotiable Instruments Act with regard to dishonour of cheque No.970848 dated 23.11.2016 worth ₹ 1,50,000/-. On completion of preliminary evidence, the petitioner was summoned under Section 138 of Negotiable Instruments Act by the learned trial Court but he did not respond to the notice and warrants issued by the said Court and finally, the petitioner was

declared as proclaimed person by the learned trial Court vide order dated 21.9.2023 (Annexure P-2).

3. Counsel for the petitioner submits that the impugned order is illegal. It is further submitted that later on, the matter was compromised between the parties and complaint (Annexure P-1) was withdrawn by respondent No.2 on the basis of the said compromise vide order dated 5.10.2023 (Annexure P-5). He further submits that the impugned order being offshoot of complaint (Annexure P-1) is not sustainable in light of the fact that the main complaint case is already dismissed as withdrawn.

4. Notice of motion.

5. Mr. Neeraj Sheoran, DAG, Haryana accepts notice on behalf of respondent No.1 and submits that the present petition may be disposed of in light of the aforesaid assertions made by the counsel for the petitioner.

6. Undoubtedly, the impugned order (Annexure P-2) is arising out of complaint (Annexure P-1) which is already dismissed as withdrawn vide order dated 5.10.2023 (Annexure P-5) passed by the learned trial Court on the basis of the compromise effected between the parties. In the given circumstances, the impugned order (Annexure P-2) whereby the petitioner was declared as proclaimed person in the main complaint has also to go and cannot be sustained in the eye of law with the changed circumstances.

7. For the foregoing reasons, the present petition is allowed and impugned order dated 21.9.2023 (Annexure P-2) is set aside.

(KARAMJIT SINGH)
JUDGE

February 14, 2024

Paritosh Kumar