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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. 4400/2024 & CRL. MAs 16682-83/2024**

HARI SINGH THAKUR Petitioner

Through: Ms. Perti Gupta and Ms. Henna George, Advocates.

versus

STATE OF NCT OF DELHI AND ANR Respondent

Through: Mr. Laksh Khanna, APP for State with SI Ramjir Singh PS Adarsh Nagar, Delhi.

Mr. Sahil Nagpal, Advocate for respondent No.2.

+ **CRL.M.C. 4401/2024 & CRL. MAs 16684-85/2024**

HARI SINGH THAKUR Petitioner

Through: Ms. Perti Gupta and Ms. Henna George, Advocates.

versus

STATE OF NCT OF DELHI AND ANR Respondent

Through: Mr. Laksh Khanna, APP for State with SI Ramjir Singh PS Adarsh Nagar, Delhi.

Mr. Sahil Nagpal, Advocate for respondent No.2.

+ **CRL.M.C. 4402/2024 & CRL. MAs 16686-87/2024**

HARI SINGH THAKUR Petitioner

Through: Ms. Perti Gupta and Ms. Henna George, Advocates.

versus

STATE OF NCT OF DELHI AND ANR Respondent

Through: Mr. Laksh Khanna, APP for State with SI Ramjir Singh PS Adarsh Nagar, Delhi.

Mr. Sahil Nagpal, Advocate for respondent No.2.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI



ORDER
29.05.2024

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1. By way of present petitions filed under Sections 482 Cr.PC, the petitioner seeks quashing of the orders dated 22.05.2019 and 05.12.2019 passed by the learned MM, Rohini Court, New Delhi in CC Nos.73/2018, 1595/2018 and 59/2018 whereby the petitioner has been declared as proclaimed offender as well as quashing of the order dated 25.02.2020 whereby directions were issued to the SHO concerned to register an FIR under Section 174-A of IPC against the petitioner.
2. Learned counsel for the petitioner states that the latter directions of the learned Trial Court are yet to be complied with by the State and no FIR has been registered against the petitioner till date.
3. Notably, the impugned orders are passed in proceedings arising out of a complaint case filed under Section 138 and 142 of the Negotiable Instruments Act ('NI Act') as well as under Section 420 IPC. After pre-summoning evidence, the petitioner alongwith others was summoned by the learned trial court. The summons remained unserved with the report of Process Server - 'left the address'. Bailable warrants as well as non-bailable warrants were issued however, the same remained unexecuted with the remark 'accused has closed down their official address' and 'accused are not traceable' respectively. Resultantly, proceedings under Section 82 Cr.P.C. were initiated and vide orders dated 22.05.2019 and 05.12.2019, the petitioner alongwith the co-accused was declared proclaimed offender. Further, vide order dated 25.02.2020, direction was given to register an FIR under Section 174A IPC.
4. Learned counsel for the petitioner contended that the petitioner could



not have been declared a proclaimed offender and in this regard, has referred to the decision of this Court in Sanjay Bhandari v. State (NCT of Delhi) reported as **2018 SCC OnLine Del 10203** and in Mohd. Haris Usmani v. State (N.C.T. of Delhi) reported as **2021 SCC OnLine Del 5335**.

5. It is further contended that the proceedings initiated under Section 82 Cr.P.C. against the petitioner were liable to be set aside as the summons were never served at his address. In this regard, reliance is placed on the report of Process Server dated 23.08.2019, which shows that the petitioner was sought to be served at House No.52-A1, Local Shopping Complex, Paschim Vihar, Delhi- 110063 as well as House No.2A, 4th Floor, Jia Sarai, IIT, New Delhi-110016.

6. Learned counsel for the petitioner has referred to this Court's order dated 15.02.2024 passed in Crl. M.C. 2628/2023 wherein, noticing a similar report with respect to service on petitioner's wife-Jaishree who is a co-accused in this case, it was noted that the process server had sought to serve the petitioner therein at the house in Jia Sarai wherein a statement of one Ambika Thakur records that the petitioner never resided there and fresh address being A-1/130, Paschim Vihar, New Delhi-110063 was provided to the process server. The proceedings initiated under Section 82 Cr.PC in the said case were quashed on the ground that despite having knowledge of the said new address, attempts were not made to serve the petitioner at the said address. Indisputably, the petitioner along with his wife Jaishree are facing proceedings in four complaint cases initiated at the behest of the respondent No.2. In spite of the fact that the new address came to the notice of the respondent No.2 as well as in the Process Server report, the process under Section 82 Cr.PC continued to be issued at the earlier address.



7. Learned counsel for the petitioner also contended that the petitioner was not aware of the proceedings initiated under Section 138 of NI Act, as no summons were ever received by her.
8. It is informed that the proceedings under Section 138 NI Act have been stayed in view of the pendency of proceedings under Section 9 IBC.
9. Learned counsel for respondent No.2 however, has stated that the petitioner was aware of the criminal complaint filed under Section 138 NI Act and that she had appeared before the NCLT, wherein in the petition filed under Section 9, the pendency of proceedings under Section 138 NI Act was disclosed.
10. Considering the aforesaid and especially the fact that despite the fresh address coming into the notice, no process was issued to the petitioner at the said address.
11. Learned counsel for the petitioner at this stage also states that the petitioner undertakes to appear before the Trial Court as and when directed.
12. Considering the petitioner was sought to be served at the old address despite the fresh address being available as well as in view of the aforesaid undertaking given on behalf of the petitioner, the impugned order(s) whereby the petitioner has been declared as proclaimed offender as well as consequent directions of registration of FIR under Section 174A IPC are set aside, however subject to payment of cost of Rs.10,000/- to be deposited by the petitioner with the Delhi State Legal Services Authority(Account No.18580110053263, UCO Bank, Branch Rouse Avenue, IFSC: UCBA0003364) within a period of three weeks from today. The amount so deposited shall be utilized by the Delhi State Legal Services Authority for providing counselling/psychological support to POCSO victims requiring



such assistance.

13. Proof evidencing receipt of deposit shall be filed with the I.O. as well as in Court.

14. A copy of this order be communicated to the Member Secretary, Delhi State Legal Services Authority for intimation.

15. With the above directions, the petition is disposed of alongwith miscellaneous applications.

MANOJ KUMAR OHRI, J

MAY 29, 2024/rd