



IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

129+203

CRM-M-12570-2023 (O&M)
Date of decision: 04.02.2025

Bhavneet Walia ...Petitioner

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Mayank Bajaj, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

None for respondent No. 2.

MANISHA BATRA, J. (Oral)

1. CRM-11616-2023

Allowed as prayed for.

Leave granted.

2. CRM-3984-2025

Allowed as prayed for, subject to all just exceptions.

3. CRM-3985-2025

Allowed as prayed for.

Documents are taken on record.

4. CRM-M-12570-2023 (O&M)

The instant petition has been filed by the petitioner under Section 482 of Cr.P.C. for quashing of order dated 22.08.2014 (Annexure P-1), passed by the Court of learned Judicial Magistrate First Class, Faridabad in Complaint bearing No. NACT/1493/2014, titled as *M/s Maa Sharda International vs. M/s New Line*, filed under Section 138 of the Negotiable



Instruments Act, 1881 (*for short 'N. I. Act'*), whereby the petitioner had been declared a proclaimed person as well as for quashing of FIR No. 0210 dated 01.04.2021, registered under Section 174-A of IPC at Police Station Surajkund, District Faridabad.

5. At the very outset, learned counsel for the petitioner has restricted his arguments only to the extent of quashing of order dated 22.08.2014, whereby the petitioner had been declared a proclaimed person.

6. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that the petitioner had been declared a proclaimed person without following the proper procedure prescribed under Section 82 of Cr.P.C. Even otherwise, the matter has been settled amicably between the parties and the aforesaid complaint has been dismissed as withdrawn, vide order dated 05.08.2022 (Annexure P-4). Hence, it is urged that the impugned order is liable to be set aside.

7. Since the matter relates to a private complaint filed under Section 138 of N. I. Act, learned Assistant Advocate General, Haryana has not raised any arguments. There is no representation on behalf of respondent No. 2.

8. I have heard learned counsel for the petitioner at considerable length and have also gone through the material placed on record.

9. On giving due deliberations to the contentions as raised by learned counsel for the parties and on an overall perusal of the orders passed by the learned trial Court from the date of initiating proceedings under Section 82 Cr.P.C. as against the petitioner till the date of declaring him a proclaimed person, I am of the considered opinion that the impugned order dated



22.08.2014 suffers from material illegalities and is liable to be quashed with all the consequential proceedings arising therefrom.

10. After going through the material placed on record as well as the copies of zimni orders passed by the learned trial Court, it is revealed that on 15.07.2014, since the non-bailable warrants issued against the petitioner were received back unserved, the learned trial Court had ordered for issuance of proclamation against him for 11.08.2014. On 11.08.2014, the proclamation was received back duly executed but the case was adjourned to 22.08.2014 awaiting the appearance of the petitioner as the mandatory period of 30 days had not elapsed. However, while passing order dated 15.07.2014, the proclamation was issued for 11.08.2014, which means that the petitioner was granted less than 30 days' period to cause his appearance before the Court. Hence, the same was in clear violation of the provisions of Section 82(1) Cr.P.C., as per which, a specified time of not less than 30 days is required to be given to the accused from the date of publishing such proclamation which is mandatory in nature. Reliance in this regard can be placed upon ***Gurappa Gugal and others Vs. State of Mysore : 1969 CriLJ 826*** and ***Shokat Ali Vs. State of Haryana : 2020(2) RCR (Criminal) 339***. More so, while adjourning the case to 22.08.2014 since the mandatory period of 30 days had not elapsed, the trial learned Court failed to consider the fact that it could not have extended the time by simply adjourning the case as a fresh proclamation was required to be published once the period between issuance of publication of proclamation and the specified period of hearing was less than 30 days. Reference in this context can be made to ***Dilbagh Singh Vs. State of Punjab (P&H) : 2015 (8) R.C.R. (criminal) 166***.

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11. Accordingly, in view of the discussion as made above and also in view of the ratio of law as laid down in above cited authorities, the present petition is *partly* allowed and the impugned order dated 22.08.2014 (Annexure P-1), passed by the Court of learned Judicial Magistrate First Class, Faridabad in Complaint bearing No. NACT/1493/2014, titled as *M/s Maa Sharda International vs. M/s New Line*, filed under Section 138 of the N. I. Act, whereby the petitioner had been declared a proclaimed person, is quashed with all consequential proceedings arising therefrom.

04.02.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No