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

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CRM-M-16780-2025 (O&M)

Date of decision: 26.03.2025

Rekha Goyal**...Petitioner****Versus****M/s Cinemaster****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. D. S. Matya, Advocate
for the petitioner.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioner under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 for quashing of order dated 13.08.2024 (Annexure P-17), passed by the Court of learned Judicial Magistrate First Class, Ambala in case titled as ***M/s Cinemaster vs. M/s Viktoria Cineplex***, arising out of complaint bearing CIS No. NACT/2322/2019, filed under Section 138 of the Negotiable Instruments Act, 1881 (*for short 'N. I. Act'*), whereby the petitioner had been declared a proclaimed person.

2. The present petition has been filed by the petitioner on the grounds and it has been argued by her counsel that the petitioner has been falsely implicated in the aforementioned complaint. The petitioner was not aware about pendency of the aforementioned complaint. A perusal of the complaint would show that two addresses of the petitioner's firm have been given in the same. Even the address of the petitioner has been wrongly mentioned as of Madhya Pradesh, whereas the correct address of the petitioner is of Bathinda, Punjab. It is further submitted that since the warrants/notices were issued at the wrong addresses, the petitioner was never served with any

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notice/warrants issued by the learned trial Court. Hence, the petitioner had been declared a proclaimed person without following the proper procedure prescribed under Section 82 of Cr.P.C. Even otherwise, the petitioner is ready to join the Court proceedings. Hence, it is urged that the impugned order is liable to be set aside.

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

4. 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 13.08.2024 suffers from material illegalities and is liable to be quashed with all the consequential proceedings arising therefrom.

5. 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 23.05.2024, since the non-bailable warrants issued against the petitioner were received back unserved, the learned trial Court had ordered for issuance of proclamation against her for 23.05.2024. A bare perusal of the statement of the serving police official shows that the proclamation was executed on 08.06.2024 at the purported residence of the petitioner at Chowk, Pritampur, Madhya Pradesh, whereas in fact the petitioner was ordinarily residing at Bathinda, Punjab. More so, the notices and warrants issued prior to issuance of proclamation were also not issued at the address of the petitioner, where she was in fact residing i.e. Bathinda, Punjab. Hence, it can reasonably be

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presumed that the process never reached the petitioner and hence, she had no occasion to conceal herself. As such, the action of the learned trial Court by switching to the proclamation proceedings under Section 82 of Cr.P.C. can itself be stated to be bad in the eyes of law. Reliance in this context can be placed upon ***Manjit Kaur vs. State of Punjab : 2013 SCC Online (P&H) 8663.***

6. 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 allowed and the impugned order dated 13.08.2024 (Annexure P-17), passed by the Court of learned Judicial Magistrate First Class, Ambala in case titled as ***M/s Cinemaster vs. M/s Viktoria Cineplex***, arising out complaint bearing CIS No. NACT/2322/2019, 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.

7. Keeping in view the fact that the petitioner is ready to join the Court proceedings which would obviously help in speedy conclusion of trial, she is directed to surrender before the learned trial Court within a period of 15 days from today and on doing so, the learned trial Court shall release her on bail, subject to her furnishing personal/surety bonds to its satisfaction.

8. Till the appearance of the petitioner before the learned trial Court, her arrest shall remain stayed.

9. It is made clear that in case the petitioner fails to appear before the learned trial Court within the stipulated time, this petition shall be deemed to be dismissed.

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10. However, this relief shall be subject to payment of cost of Rs. 5,000/-, to be deposited by the petitioner with the learned trial Court, which shall further be disbursed to the respondent/complainant.

26.03.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No