

2025:PHHC:048771



140.

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

CRM-M-19279-2025

Date of decision: 08.04.2025

Rakesh

.... Petitioner

Versus

State of Haryana and another

.... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ashwani Nagra, Advocate, for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

1. The instant petition has been filed under Section 528 of BNSS, 2023, for quashing of order dated 05.12.2024 (Annexure P-5) passed by learned Judicial Magistrate Ist Class, Meham (Rohtak), along with all consequential proceedings arising thereto, vide which, the petitioner has been declared as proclaimed person in a complaint case registered under Section 138 of Negotiable Instruments Act (for short, NI Act), bearing No.NACT 11-2019, titled as *Devender Versus Rakesh*. He has also prayed for stay of proceedings in FIR No.106, dated 11.03.2025, under Section 209 of BNS, registered at Police Station Meham, District Rohtak.

2. Learned counsel for the petitioner has primarily prayed for setting aside of the impugned order on the ground that he was never served either with the summons or warrants issued by the Trial Court in the complaint instituted under Section 138 of the NI Act. Learned counsel, therefore, submits that absence of the petitioner was thus, not intentional as

he was unaware about the pendency of the complaint instituted against him under Section 138 of the NI Act and still further, even the proclamation was never served upon him as per the provisions of Section 82 Cr.P.C. Learned counsel has vehemently contended that as soon as the petitioner learnt about the pendency of the complaint in question, he immediately made the payment of the cheque amount to the complainant and compromised the matter with him. Resultantly, the complaint instituted under Section 138 of the NI Act by the complainant, was withdrawn by him on 18.03.2025. In support, he has drawn the attention of this Court to Annexure P-9 wherein it stands reflected that the matter stood amicably settled between the parties and the complaint stood withdrawn. A prayer, therefore, has been made that in the aforementioned facts and circumstances, no purpose would be served by prosecuting the petitioner under Section 209 of BNS, more so, when he was not involved in any other criminal case much less under Section 138 of the NI Act nor had he been declared a proclaimed person prior thereto in any other case.

3. Notice of motion.

4. On asking of the Court, Mr. Rahul Mohan, Senior DAG, Haryana accepts notice on behalf of respondent No.1-State.

5. Learned State counsel has opposed the prayer made by the counsel opposite and contended that it was evident that the petitioner had intentionally not appeared during the proceedings before the court below and hence, the prayer of the petitioner deserved to be declined.

6. I have heard learned counsel for the parties and perused the relevant material on record.

7. The petitioner was declared a proclaimed person vide impugned order in a complaint case under Section 138 of the NI Act. Admittedly, the said complaint was withdrawn after the parties arrived at a compromise. Furthermore, the petitioner is neither involved in any other criminal case nor was he declared a proclaimed person any time prior thereto. Hence, the continuation of criminal proceedings under Section 209 of BNS would serve no useful purpose.

8. Accordingly, the present petition is allowed and the order dated 05.12.2024 (Annexure P-5) declaring the petitioner as proclaimed person as well as FIR registered under Section 209 of BNS and consequential proceedings arising therefrom are set aside.

(MANJARI NEHRU KAUL)
JUDGE

April 08, 2025
sanjeev

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No