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

CRM-M-17285-2023

Date of Decision: 12.05.2026

Sher Mohammad

..... Petitioner

Versus

R.K. Filling Station and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

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

None for respondent No.1.

Mr. Tanuj Sharma, AAG, Haryana.

Rajesh Bhardwaj, J. (Oral)

1. Prayer in the present petition is for quashing of the impugned order dated 21.01.2023 passed by learned JMIC, Bawal at Rewari, vide which the petitioner has been declared proclaimed offender in a complaint No.816/2017 dated 03.10.2016 titled as R.K. Filling Station, Bharat Petroleum vs. Sher Mohammad, as well as FIR No.43 dated 14.02.2023 registered under Section 174-A IPC (now Section 209 BNS, 2023), at Police Station Bawal, District Rewari.

2. Learned counsel for the petitioner has submitted that the petitioner was prosecuted in a complaint filed under Section 138 of the NI Act, however, during the pendency of the same, the petitioner was declared as proclaimed person vide impugned order dated 21.01.2023 due to his absence and the impugned FIR under Section 174-A IPC was registered against him. He submits that this Court vide order dated 12.04.2023 had stayed the operation of order dated 21.01.2023 as well, however, later on the petitioner surrendered and as on date, he has been convicted by learned trial



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Court for the offence under Section 138 of the NI Act. He further submits that once the petitioner has already surrendered and thereafter, has been convicted, prosecution of the petitioner in the impugned FIR registered under Section 174-A IPC would be nothing but an abuse of the process of the law.

3. Learned State counsel has opposed the submissions made by learned counsel for the State.

4. I have heard counsel for the parties and perused the record. It is apparent that the present FIR was registered due to non-appearance of the petitioner and he was declared as a proclaimed person vide order dated 21.01.2023. It is apparent that though there was stay against the order dated 21.01.2023 in favour of the petitioner, however, he surrendered before the trial Court, faced the trial and was convicted.

5. It is not in dispute that the petitioner was declared proclaimed person vide order dated 21.01.2023 on account of his non-appearance during the pendency of proceedings under Section 138 of the NI Act. However, subsequently, the petitioner surrendered before the learned trial Court and participated in the proceedings. The complaint case has already culminated in conviction of the petitioner under Section 138 of the NI Act. Thus, the very purpose of securing the presence of the petitioner before the trial Court already stands achieved.

5. Accordingly, the present petition is disposed of. The impugned order dated 21.01.2023 passed by learned JMIC, Bawal at Rewari declaring the petitioner as proclaimed person, as well as FIR No.43 dated 14.02.2023 registered under Section 174-A IPC (now Section 209 BNS, 2023) at Police

Station Bawal, District Rewari and all consequential proceedings arising therefrom, are hereby quashed.

12.05.2026

sharmila

(RAJESH BHARDWAJ)

JUDGE

Whether Speaking/Reasoned

Whether Reportable

:

:

Yes/No

Yes/No