

[²⁷Para 17.10].

31. We hope that the concerned authorities in the Government will take cognizance of the issue of introducing requisite legislative changes for an effective regulatory mechanism to check violation of professional ethics and also to ensure access to legal services which is major component of access to justice mandated under Article 39A of the Constitution.

32. The appeal stands disposed of accordingly.

Order accordingly.

PUNJAB AND HARYANA HIGH COURT

Before: Anupinder Singh Grewal, J.

CRM No. M-32465 of 2017

Decided on: 13.09.2017

Vikas Sharma

Petitioner

Versus

Gurpreet Singh Kohli and another

Respondents

Present: Mr. Rajesh Gupta, Advocate for the petitioner.

Mr. Karan Sharma, Assistant Advocate General, Haryana.

Negotiable Instruments Act, 1881 (26 of 1881), Section 138 -- Indian Penal Code, 1860 (45 of 1860), Section 174-A -- Code of Criminal Procedure, 1973 (2 of 1974), Section 82 -- Cheque bounce case -- Proclaimed person -- Quashing of FIR-- Petitioner could not appear before the trial Court as he was stated to have not been served at the address, where he was residing -- After the passing of the impugned order declaring him as a proclaimed person, he had surrendered before the trial Court and was ordered to be released on bail -- In such circumstances, especially, when the petitioner has duly surrendered before the trial Court, continuation of proceedings under Section 174-A IPC would be an abuse of the process of Court.

(Para 5)

Cases referred:

1. Raj Kumar Vs. State of Haryana, CRM No. M-5895 of 2012, decided on 13.09.2012.

JUDGMENT

ANUPINDER SINGH GREWAL, J. (ORAL) –

1. The petitioner is seeking quashing of order dated 30.08.2016 (Annexure P-4) passed by Judicial Magistrate Ist Class, Ambala, in complaint No. 1021/2015 dated 27.07.2015, whereby the petitioner was declared as proclaimed person and a direction was issued to police to register FIR under Section 174-A IPC against the petitioner; he is also seeking quashing of FIR No. 76 dated 17.03.2017 under Section 174-A IPC registered at Police Station Parao, District Ambala Cantt.

2. Learned counsel for the petitioner contends that the petitioner could not appear before the trial Court because he was not aware of the proceedings as he was not served at the address where he was residing. The petitioner after learning about the order declaring him as proclaimed person, has duly surrendered before the trial Court on 29.03.2017 and has been ordered to be released on bail. A copy of the order dated 29.03.2017 passed by the trial Court releasing the petitioner on bail is appended hereto as Annexure P-6.

3. To support his submissions, learned counsel has placed reliance upon the judgment of a co-ordinate Bench of this Court in the case of **"Raj Kumar Vs. State of Haryana"**, passed in CRM No. M-5895 of 2012, decided on 13.09.2012.

4. Heard.

5. The petitioner could not appear before the trial Court as he was stated to have not been served at the address, where he was residing. After the passing of the impugned order declaring him as a proclaimed person, he had surrendered before the trial Court on 29.03.2017 and was ordered to be released on bail. In such circumstances, especially, when the petitioner has duly surrendered before the trial Court, continuation of proceedings under Section 174-A IPC would be an abuse of the process of Court. I draw support from the judgment of a coordinate Bench of this Court in the case of Raj Kumar (supra), wherein it was held that as the petitioner therein had appeared before the trial Court and granted bail, the continuation of criminal proceedings under Section 174-A IPC would amount to an abuse of process of law.

6. Consequently, the impugned order dated 30.08.2016 is set aside and FIR No. 76 dated 17.03.2017 under Section 174-A IPC registered at Police Station Parao, District Ambala Cantt. and all consequential proceedings arising therefrom are hereby quashed qua the petitioner.

Order accordingly.

SUPREME COURT OF INDIA

Before: Dipak Misra, CJI, A. M. Khanwilkar & Dr D Y Chandrachud, JJ

Civil Appeal No. 19400 of 2017

Decided on: 15.12.2017

[Arising out of SLP (C) No. 8858 of 2017]

Raj Kumar Bhatia

Appellant

Versus

Subhash Chander Bhatia

Respondent

Code of Civil Procedure, 1908 (V of 1908), Order 6 Rule 17 – Constitution of India, Article 227 – Amendment of written statement – Revisional jurisdiction -- In the exercise of its jurisdiction under Article 227, the High Court does not act as an appellate court or tribunal and it is not open to it to review or reassess the evidence upon which the inferior court or tribunal has passed an order -- Trial Court had in the considered exercise of its jurisdiction allowed the amendment of the written statement under Order 6 Rule 17 of the CPC -- There was no reason for