



CRM-M-12917-2025

-1-

In the High Court of Punjab and Haryana at Chandigarh

122

CRM-M-12917-2025

Date of Decision: 07.03.2025

VIVEK GAUR AND ANOTHER

....PETITIONERS

VERSUS

STATE OF HARYANA AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE H.S.GREWAL

Present: Mr. Alok Mittal, Advocate for
Mr. Mukal Gupta, Advocate for the petitioners.

H.S. GREWAL, J. (ORAL)

1. This petition has been filed under Section 528 BNSS, 2023 (read with Section 482 Cr.P.C.) for setting aside the order dated 27.05.2024 (Annexure P-1) passed by the learned Judicial Magistrate Ist Class, Gurugram vide which the petitioners were declared proclaimed persons in complaint case No.NACT 3612/2018 dated 23.02.2018.

2. Learned counsel for the petitioners contended that the petitioners, who were merely the Directors of the Company w.e.f. 2011 to 2016, were summoned in an application under Section 311 Cr.P.C. vide order dated 02.11.2019 (Annexure P-4) on the ground that a cheque for a sum of Rs.4,78,198/- issued by the company i.e. 'M/s VAS Data Services Pvt. Ltd.' had been dishonoured on account of insufficient funds. Later on 25.02.2020 (Annexure P-5), after expiry of 30 days, the petitioners were issued bailable warrants for 02.06.2020 and their counsel had appeared for the first time on



12.10.2022 and their exemption application was allowed and the matter was fixed for 01.03.2023 for their presence but on that day, none had appeared on their behalf and non-bailable warrants were issued against them. Although the counsel had appeared before the trial Court on 30.05.2023 (Annexure P-7) and had filed two separate applications for exemption from personal appearance which were declined and thereafter, order of proclamation under Section 82 Cr.P.C. was issued against the petitioners for 25.01.2024. Thereafter, the proclamations were executed on 20.04.2024 and 25.04.2024 and subsequent thereto, the impugned order(Annexure P-1) was passed whereby the petitioners were declared proclaimed persons. Learned counsel also contended that since the aforesaid company was facing insolvency proceedings and the petitioners were facing multiple cases before various Courts and as a result thereof, they could not keep track of the present proceedings. It is, therefore, prayed that the petitioners may be permitted to surrender before the learned trial Court to attend the trial proceedings continuously and the impugned order may be set aside.

3. Notice of motion.

4. On the asking of the Court, Ms. Ankita Ahuja, AAG, Haryana accepts notice on behalf of the respondent-State. She states that she has no objection in case the impugned order is set aside.

5. I have heard learned counsel for the parties and gone through the case file.

6. In view of the facts as noticed above and keeping in view the totality of the facts and circumstances of the case, the petition is allowed and



CRM-M-12917-2025

-3-

the order dated 27.05.2024 (Annexure P-1) passed by the learned Judicial Magistrate Ist Class, Gurugram is ordered to be set aside. The petitioner is directed to surrender before the learned trial Court within 07 days and move an application for regular bail. The trial Court is directed to consider and dispose of the bail application on the very same day.

(H.S.GREWAL)
JUDGE

07.03.2025
A.Kaundal

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