

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-32493-2017

Date of decision: 06.11.2017

Ajeet Singh

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Arun Sharma, Advocate
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for quashing of FIR No.358 dated 08.03.2017 under Section 174A of the Indian Penal Code ('IPC' for short), registered at Police Station Jagadhri City, District Yamuna Nagar and all the subsequent proceedings arising therefrom.

It is submitted on behalf of the petitioner that Mandeep Singh has filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 ('the Act' for short) before the trial Court on 19.08.2015 against the present petitioner regarding dishonour of a cheque of Rs.30,000/-. It is further submitted that the petitioner was not aware about pendency of the said case and since the petitioner was not served in the case, proclamation under Section 82 (1) of the Code of Criminal Procedure ('Cr.P.C.' for short) was issued against him for 28.02.2017. It is also submitted that the

petitioner was never served with the said proclamation, as it was not made at the place of ordinary residence of the petitioner. Thereafter, the trial Court vide impugned order dated 28.02.2017 (Annexure P-3) declared the petitioner as proclaimed person and directed the police to register the FIR under Section 174A IPC. In pursuance of the impugned order, FIR (Annexure P-4) was registered against the petitioner. Counsel for the petitioner has submitted that the petitioner has already compromised the matter under Section 138 of the Act, out of the Court and in pursuance thereof, Mandeep Singh has already withdrawn the complaint on the basis of compromise dated 23.08.2017 (Annexure P-5). In the present FIR, the petitioner has already appeared before the trial Court and has been granted the regular bail. Counsel for the petitioner has further submitted that petitioner is a young man aged about 20 years and had no intention, not to appear before the trial Court and in fact has shown his bonafide because, as and when he came to know about the proceedings under Section 138 of the Act, he immediately got a compromise dated 23.08.2017 effected with the complainant Mandeep Singh, who, in turn, had withdrawn the said complaint. Counsel for the petitioner further submits that conduct of the petitioner show that he never wanted to indulge in the litigation and therefore, as the summons were never served on the petitioner, proceedings initiated against him under Section 82 (1) Cr.P.C. as well as the impugned order dated 28.02.2017 (Annexure P-3) passed by the trial Court were not in accordance with the procedure provided under Section 82 (1) Cr.P.C.

Learned State counsel, on instructions from ASI Santokh Singh, has not disputed the factual position and on the basis of affidavit of

DSP, Jagadhri (Yamuna Nagar) has submitted that the challan has already been presented in the present case.

After hearing learned counsel for the parties, I find merit in the present petition. Since the petitioner has already compromised the matter with the complainant Mandeep Singh by paying an amount of Rs.30,000/- and Mandeep Singh has withdrawn the proceedings under Section 138 of the Act during pendency of which, the trial Court has initiated the proceedings under Section 82 (1) Cr.P.C. as well as passed the impugned order dated 28.02.2017 for registration of FIR against the petitioner under Section 174A IPC. Considering the fact that it has come on record as per the order dated 02.01.2017 passed by the trial Court that whereabouts of the petitioner could not be traced when the warrants of arrest were issued against him in the aforesaid complaint under Section 138 of the Act, therefore, the proclamation under Section 82 (1) Cr.P.C. on the same address was not in accordance with the law.

For the reasons recorded above, present petition is allowed. FIR No.358 dated 08.03.2017 under Section 174A IPC, registered at Police Station Jagadhri City, District Yamuna Nagar and all the subsequent proceedings arising therefrom are ordered to be quashed.

(ARVIND SINGH SANGWAN)
JUDGE

06.11.2017
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Whether speaking/reasoned Yes/No

Whether reportable Yes/No