

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

CRM-M-35431-2016

Date of decision:-4.5.2018

Satpal

...Petitioner

Versus

State of Punjab and another

...Respondents

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

Present : Mr.D.K. Sihag, Advocate
for the petitioner.

Mr.Rakeshinder Singh Sidhu, AAG, Punjab.

H.S. MADAAN, J.

This petition under Section 482 Cr.P.C. for quashing of FIR No.06 dated 8.1.2016, under Section 174-A IPC, registered at Police Station City-I, Abohar, District Fazilka along with all subsequent proceedings has been filed by petitioner - Satpal, who is an accused in the said FIR.

Briefly stated, facts of the case are that Canara Bank had filed a complaint under Section 138 of Negotiable Instruments Act against petitioner/accused Satpal. The accused did not put in appearance despite proclamation under Section 82 Cr.P.C. issued against him, as such, Judicial Magistrate Ist Class, Abohar vide order dated 4.1.2016 declared him as a proclaimed person and directed that intimation in that regard be sent to the police station for making necessary entry in the relevant register and to get FIR registered against the accused under

Section 174-A IPC, as such, the FIR in question was accordingly registered. Subsequently, the petitioner had entered into a compromise with the complainant – bank, which then withdrew its complaint from the Court. The petitioner seeks quashing of the FIR for the reason that after making payment to the complainant – bank and earning acquittal in the criminal complaint, FIR in question and proceedings therein amount to abuse of process of law and should be quashed.

Notice of the petition was issued to the respondents.
Respondent No.1 – State appeared through counsel.

I have heard learned counsel for the parties besides going through the record.

Section 174-A IPC deals with non-appearance in response to proclamation under Section 82 Cr.P.C. and for ready reference it is being reproduced as under:

174A. Non-appearance in response to a proclamation under section 82 of Act 2 of 1974.—Whoever fails to appear at the specified place and the specified time as required by a proclamation published under sub-section

(1) of section 82 of the Code of Criminal Procedure, 1973 shall be punished with imprisonment for a term which may extend to three years or with fine or with both, and where a declaration has been made under sub-section (4) of that section pronouncing him as a proclaimed offender, he shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

The offence is cognizable, non-bailable, non-compoundable and triable by Magistrate of Ist Class. Admittedly, the petitioner in this case had been declared a proclaimed person and for that reason, FIR for

offence under Section 174-A had been registered against him. Though according to him, he has compromised the matter with the complainant as regards offence under Section 138 of the Negotiable Instruments Act but that does not mean that proceedings with regard to FIR under Section 174-A IPC are to come to an end. This offence is against the State and is not an offence concerning two private individuals. Therefore, I am not convinced that registration of the FIR and related proceedings thereto are abuse of process of law, which need to be quashed due to matter with regard to offence under Section 138 of Negotiable Instruments Act having been compromised between the parties.

The petition being without merit stands dismissed accordingly.

(H.S.MADAAN)
JUDGE

4.5.2018
Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No