

CRM-M-42482-2016 (O&M)

Date of decision:19.03.2018

Parveen Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Ritesh Pandey, Advocate
for the petitioner.

Mr. Abhaypal Singh Gill, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for quashing of FIR No.129, dated 17.08.2015, under Section 174-A IPC, registered at Police Station Fatehgarh Sahib, District Fatehgarh Sahib and all subsequent proceedings arising therefrom.

Learned counsel for the petitioner submits that the petitioner is a Govt. servant and is serving in National Fertilizer Ltd. (NFL) and he had issued a cheque of Rs. 10,000/- to one Vikram Singh-complainant. The said complainant-Vikram Singh had filed a complaint under Section 138 of the Negotiable Instruments Act against the petitioner on account of dishonouring of cheque.

The trial Court, vide order dated 16.04.2014, issued summoning order against the petitioner. However, the petitioner was not served and in the meantime, the case was transferred from Chief Judicial Magistrate, Rupnagar to Judicial Magistrate 1st Class, Fatehgarh Sahib on 17.04.2015. Learned counsel for the petitioner has relied upon the order dated 17.04.2015, in support thereof. It is further submitted that later on, the matter was compromised between the petitioner and complainant-Vikram

Singh, who executed a receipt dated 23.04.2015. However, despite the fact that the complainant has undertaken to withdraw the complaint, the same remains pending and in the meantime, the petitioner was declared a proclaimed offender on 28.08.2015 and a direction was issued by the trial Court to register an FIR against the petitioner, under Section 174-A IPC.

Later on, the trial Court vide order dated 26.09.2016, allowed the complainant to withdraw the complaint and as such, as on today, the matter in dispute between the petitioner and the complainant under Section 138 of the Negotiable Instruments Act stood resolved and the petitioner has been acquitted.

Counsel for the petitioner has submitted that the petitioner was not served with the summons under Section 138 of the Negotiable Instruments Act and in the meantime, the case was transferred from Chief Judicial Magistrate, Rupnagar to Judicial Magistrate 1st Class, Fatehgarh Sahib and despite the undertaking given by the complainant to withdraw the complaint, on receiving the cheque amount, the same was withdrawn only on 26.09.2016 and in the intervening period, the petitioner was not aware of the pendency of the proceedings and the FIR No.129, dated 17.08.2015, under Section 174-A IPC are listed.

Learned State counsel, on instructions from Investigating Officer, has not disputed the factual position that the FIR has been registered only on account of the fact that the petitioner was declared as a proclaimed offender in the complaint filed under Section 138 of the Negotiable Instruments Act.

In reply, learned counsel for the petitioner submits that the main petition under Section 138 of the Negotiable Instruments Act stands

decided, no purpose will be served to allow prosecution of the petitioner in pursuance to impugned FIR.

In view of the submissions made by counsel for the petitioner, which are not disputed by the learned State counsel and also in view of the fact that the complaint filed under Section 138 of the Negotiable Instruments Act stands withdraw on 26.09.2016, the impugned FIR No.129, dated 17.08.2015 under Section 174-A IPC, registered at Police Station Fatehgarh Sahib, District Fatehgarh Sahib is hereby quashed.

(ARVIND SINGH SANGWAN)
JUDGE

19.03.2018
Hemlata

Whether speaking/reasoned	Yes
Whether reportable	No