

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

CRM-M-44434-2017(O&M)

Date of decision:-26.4.2018

Gagan Chauhan

...Petitioner

Versus

State of Haryana and another

...Respondents

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

Present : Mr.Rakesh Bakshi, Advocate
for the petitioner.

H.S. MADAAN, J.

This petition under Section 482 Cr.P.C. for quashing of FIR No.782 dated 7.11.2016 for an offence under Section 174-A IPC, registered with Police Station Jagadhri City, District Yamuna Nagar along with all subsequent proceedings on the basis of compromise dated 5.1.2017 between petitioner and respondent No.2, has been filed by petitioner - Gagan Chauhan, who is an accused in the said FIR.

According to the petitioner, he had raised a friendly loan from complainant Manohar Lal in the year 2013 and had given cheques to him as security. However, the petitioner had repaid the entire loan amount asking the complainant to return the cheques but the complainant represented that he had lost the same. However, the petitioner learnt later on the complainant had presented the cheque for encashment on 18.9.2014, which was returned uncashed due to insufficiency of funds in account of the accused. The

complainant/respondent No.2 had filed a complaint under Section 138 of Negotiable Instruments Act against the accused, where he had been summoned but was declared a proclaimed offender vide order dated 28.10.2015. The file was consigned to the record room. On learning about the state of affairs, the petitioner approached the Court and surrendered himself in the trial Court and was released on bail on the same day on 25.4.2016 and then he started regularly appearing before the trial Court. However, the matter was settled between the petitioner/accused and complainant and the latter made a statement in the Court that he did not want to pursue the complaint. The complaint was dismissed as withdrawn on the basis of compromise. During the pendency of proceedings under Section 138 of Negotiable Instruments Act, the complainant had approached the Court under Section 156(3) Cr.P.C. to register FIR against the petitioner, who had been declared a proclaimed offender. Thus on direction of the Court, FIR No.782 dated 7.11.2016 for the offence under Section 174-A IPC was registered. The petitioner prays that pendency of the FIR is clear abuse of process of law. Further the matter has been compromised between the parties, therefore, the FIR be quashed.

I have heard learned counsel for the petitioner 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 between 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

26.4.2018
Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No