

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-1324-2019 (O&M)

Date of decision: 07.03.2019

Milan Jain and others

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Munish Behl, Advocate
for the petitioners.

Mr. Naveen Sheoran, DAG, Haryana.

Mr. J.S. Khattar, Advocate
for respondent No.2.

ARVIND SINGH SANGWAN, J.

Prayer in this petition is for quashing of FIR No.422 dated 08.05.2018 under Section 174-A of the Indian Penal Code (for short 'IPC'), registered at Police Station Sarai Khawaja, District Faridabad and all the subsequent proceedings arising therefrom.

Learned counsel for the petitioners submits that the petitioners were facing prosecution in a complaint filed by respondent No.2 under Section 138 of the Negotiable Instruments Act, 1881 (for short 'N.I. Act') and during pendency of the same, a compromise was effected between the parties on 16.05.2018, which was followed by a statement made by respondent No.2-complainant Ram Tirath that he has received the entire

cheque amount and do not want to pursue with the complaint as per the compromise Ex.C1. On the basis of said statement, the trial Court allowed the complainant to withdraw the complaint on 16.05.2018, by passing a separate order.

Learned counsel for the petitioners further submits that however, during pendency of the said proceedings, since talks for compromise were going on, the petitioners could not appear before the trial Court and accordingly, the trial Court, noticing the fact that the petitioners have absented from the Court proceedings, issued proclamation under Section 82 Cr.P.C. and also directed that an FIR be registered against them under Section 174-A IPC. In pursuance of the said order dated 07.02.2018, the impugned FIR was registered. It is further submitted that since the talks for compromise were going on and the petitioners were under impression that the complainant will withdraw the complaint, however, as the complaint remained pending and the proceedings under Section 82 Cr.P.C., on account of non-appearance of the petitioners, were initiated, which resulted into registration of the impugned FIR, no purpose will be served if the petitioners are directed to face the trial.

Learned counsel for respondent No.2-complainant has admitted the factual position and submits that he has got no objection if the present FIR is quashed.

Learned State counsel has also not disputed the factual position, however, submitted that since proclamation was issued in this case and the publication was made, the State has incurred expenses on the same.

After hearing learned counsel for the parties, I find merit in the present petition.

Since the petitioners have already compromised the matter with complainant-respondent No.2 Ram Tirath, by paying the entire cheque amount and the complainant has withdrawn the complaint on 16.05.2018, during pendency of which, the trial Court had initiated the proceedings under Section 82 Cr.P.C. and vide order dated 07.02.2018, had directed the police to register the impugned FIR under Section 174-A IPC, I find that directing the petitioners to face the prosecution, in pursuance of the impugned FIR, will be nothing but misuse of process of law, as the complaint under Section 138 of N.I. Act stands withdrawn.

For the reasons stated above, present petition is allowed and FIR No.422 dated 08.05.2018 under Section 174-A IPC, registered at Police Station Sarai Khawaja, District Faridabad and all the subsequent proceedings arising therefrom, are ordered to be quashed qua the petitioner. This will however be subject to payment of costs of Rs.10,000/-, which will be deposited with the trial Court within a period of 08 weeks from today.

07.03.2019
vishnu

[ARVIND SINGH SANGWAN]
JUDGE

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