

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

CRM-M-29978-2019
Date of decision: 19.08.2019

Amrinder Singh

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Pardeep Goyal, Advocate
for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for quashing of FIR No.197 dated 09.03.2018 registered under Section 174-A IPC at Police Station Saran, District Faridabad (Annexure P-5) and for setting-aside the order dated 01.03.2018 (Annexure P-4) passed by the trial Court vide which the petitioner has been declared as proclaimed person.

At the very outset, learned counsel for the petitioner submits that in pursuance to the order dated 17.07.2019, the petitioner has appeared before the trial Court and he has been released on interim bail by the trial Court.

Learned counsel for the petitioner further submits that initially respondent No. 2 Rahul Gupta had filed a complaint under Section 138 of the N. I. Act on account of dishonouring of a cheque amounting to Rs. 33,422/-. However, the petitioner, on receiving the summons, had settled the dispute with respondent No. 2/complainant and has made the

payment of the cheque amount and the trial Court, after recording the statement of respondent No. 2/complainant on 16.03.2018 that he does not want to pursue his complaint as he has received the entire payment from the petitioner, has passed the order dated 16.03.2018 granting permission to respondent No. 2/complainant to withdraw the complaint.

Learned counsel for the petitioner further submits that prior to the withdrawal of the complaint, the trial Court, vide order dated 01.03.2018, noticing the fact that the petitioner has failed to appear before it despite service of notice, issued direction to the police authorities to register an FIR under Section 174-A IPC, pursuant to which, the present FIR was registered.

Learned counsel for the petitioner further submits that the petitioner was under a bona fide impression that since he has paid the entire amount to respondent No. 2/complainant, who has undertaken to withdraw and ultimately withdrew the complaint on 16.03.2018, he was not required to appear before the trial Court as the complaint was likely to be withdrawn.

Learned counsel for the petitioner further submits that in this process, on 01.03.2018, the petitioner was declared a proclaimed person and a direction was issued to the police authorities to register an FIR under Section 174-A IPC which is nothing but the misuse of the process of law as the petitioner has already settled the dispute with respondent No. 2/complainant.

Learned counsel for the petitioner has relied upon the decisions rendered by this Court in ***Vikas Sharma vs. Gurpreet Singh Kohli and another (supra), 2017, (3) L.A.R. 584, Microqual Techno Limited and***

others Vs. State of Haryana and another, 2015 (32) RCR (Crl.) 790 and Rajneesh Khanna Vs. State of Haryana and another” 2017(3) L.A.R. 555, wherein, in an identical circumstance, this Court has held that since the main petition filed under Section 138 of the N.I. Act stands withdrawn in view of an amicable settlement between the parties, therefore, continuation of proceedings under Section 174-A of IPC shall be nothing but an abuse of the process of law.

Learned State counsel, on the basis of the affidavit of the Assistant Commissioner of Police, NIT, Faridabad, filed today in Court, submits that since the petitioner has failed to appear before the trial Court despite being served with notice, the trial Court, vide order dated 01.03.2018, declared the petitioner as a proclaimed person and directed the SHO concerned to register an FIR under Section 174-A IPC.

Learned State counsel further submits that investigation is complete and challan has already been presented in this case, however, he could not dispute the fact that the matter has already been compromised between the petitioner and respondent No. 2/complainant.

After hearing learned counsel for the parties and in view of the judgment passed in ***Vikash Sharma (supra)*** case, considering the fact that the complaint filed under Section 138 of the Act was compromised as the petitioner has paid the entire cheque amount to the complainant and later on the same was withdrawn on 16.03.2018, I find merit in the present petition as the petitioner has also shown a *bona fide* cause for non-appearance before the trial Court on the date when the case was fixed. Moreover, on the direction of this Court, the petitioner has already appeared before the

trial Court and has been released on interim bail, hence, this Court is of the opinion that continuation of proceedings under Section 174-A IPC shall be an abuse of process of law.

Accordingly, the present petition is allowed and FIR No.197 dated 09.03.2018 registered under Section 174-A IPC at Police Station Saran, District Faridabad (Annexure P-5) as well as the order dated 01.03.2018 (Annexure P-4) passed by the trial Court vide which the petitioner has been declared as a proclaimed person, along with all the subsequent proceedings arising therefrom are hereby quashed qua the petitioner herein.

19.08.2019

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No