

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

**CRM-M-51783-2018
Date of Decision:28.05.2019**

Ashok Madan

...Petitioner

Versus

State of Haryana and another

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Gautam Dutt, Advocate for the petitioner.
Mr.Karan Sharma, AAG, Haryana.
Mr.R.S.Bhatia, Advocate for respondent No.2.

ANIL KSHETARPAL, J.

The petitioner was an accused in a complaint under Section 138 of the Negotiable Instruments Act, 1881 ('the Act of 1881' for short).

The petitioner filed a petition for quashing of the complaint and summoning order in this Court. Personal appearance of the petitioner was exempted and he was permitted to put in appearance through his counsel. The petitioner claims that he complied with the same. However, thereafter, proceedings under Section 82 of the Code of Criminal Procedure ('Cr.P.C.' for short) were initiated against the petitioner, when on application for cancellation of warrants of arrest was moved by the petitioner, the Court allowed bail to him. Thereafter, the petitioner appeared before the court. Once again, proceedings under Section 82 Cr.P.C. to declare the petitioner proclaimed person were initiated as the petitioner was subsequently also found absent on 14.09.2019, which resulted into FIR No.446 dated 21.08.2017 under Section 174 A of the Indian Penal Code.

It is not in dispute that thereafter the petitioner appeared before the learned trial court and once again granted bail, as pleaded, correctness whereof is not disputed. The main complaint has been dismissed for want of prosecution vide order dated 06.05.2018. It is not further in dispute that no application for restoration of the main complaint under Section 138 of the Act of 1881 has been filed, although more than a year has elapsed.

Now the question which arises before this Court as to whether the proceedings under Section 174-A IPC should be allowed to continue or not?

In the considered view of this Court, once the order declaring the petitioner as proclaimed person ceases to exist on account of the fact that he was later on granted bail by the learned trial court and he continued to put in appearance, in such circumstances, the FIR which was registered consequently upon declaring the petitioner as proclaimed person is also required to be closed.

No doubt, the learned counsel for the respondent has vehemently argued that the offence under Section 174-A IPC is independent of the main case, therefore, merely because the main case has been dismissed for want of prosecution, the present petition cannot be allowed, however, keeping in view the fact that the present FIR was registered only on account of absence from the proceedings in the main case which had been subsequently regularised by the court while granting bail to the petitioner, the default stood condoned. In such circumstances, continuation of proceeding under Section 174-A IPC shall be abuse of the process of court.

Accordingly, the petition is allowed. FIR No.446 dated 21.08.2017 registered under Section 174-A IPC at Police Station Kotwali, District Faridabad, as well as consequential proceedings shall stand quashed.

28.05.2019
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No