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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.16999 of 2020 (O&M)

Date of decision: 24.09.2020

Vishal Parashar

....Petitioner

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. S.K. Kaushik, Advocate
for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for setting-aside the order dated 03.01.2020 passed by the trial Court in complaint bearing CIS No.NACT/320/2016 filed under Section 138 of the Negotiable Instruments Act, 1881 (in short 'the N.I. Act') vide which the petitioner was declared as proclaimed person and for quashing of FIR No.10 dated 08.02.2020 registered under Section 174-A of the Indian Penal Code, 1860 (in short 'IPC') at Police Station Mansa Devi Complex, Panchkula, District Panchkula, in compliance of the order dated 03.01.2020.

Brief facts of the case are that respondent No.2 – Dhir Roadways has filed a complaint under Section 138 of the N.I. Act against the petitioner with the allegation that a cheque of Rs.40,000/- drawn on State Bank of India, on presentation before the Bank, was dishonoured. Thereafter, the complainant issued a legal notice to the petitioner and then served a complaint under Section 138 of the N.I. Act.

During the pendency of the said complaint, the petitioner was not served and later on, he was declared as proclaimed person and a further direction was issued to register an FIR under Section 174-A IPC. However later on, the petitioner appeared before the Court in the

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complaint filed under Section 138 of the N.I. Act and ultimately, the matter was compromised between the parties and the complaint under Section 138 of the N.I. Act bearing CIS No.NACT/320/2016, stands dismissed as withdrawn on 08.06.2020.

Counsel for the petitioner has argued that since the petitioner was never served in the complaint filed under Section 138 of the N.I. Act and proper procedure laid down under Sections 82/83 Cr.P.C., was not followed, before declaring him a proclaimed person and further directing the police to register an FIR under Section 174-A IPC. The petitioner on coming to know about the pendency of the complaint immediately appeared and settled the dispute with the complainant and the said complaint, filed under Section 138 of the NI Act, already stands withdrawn.

Learned counsel for the petitioner has relied upon the decisions rendered by this Court in ***“Vikas Sharma vs. Gurpreet Singh Kohli and another”***, 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 Act stands withdrawn in view of an amicable settlement between the parties, therefore, continuation of proceedings under Section 174A of IPC shall be nothing but an abuse of the process of law.

Counsel for the State could not dispute the factual position and on instructions from ASI Roshan Lal, submits that the complaint under Section 138 of the N.I. Act, already stands dismissed as withdrawn.

After hearing the learned counsel for the parties and in view of the judgment passed in ***Vikas Sharma's case (supra)***, considering the fact that the complaint filed under Section 138 of the N.I. Act was compromised and later on the same was withdrawn on 08.06.2020, I find merit in present petition as the petitioner has also shown a *bona fide* cause for non-appearance before the trial Court. The service was not effected at the ordinary place of residence of the

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petitioner and he was not aware of the said fact and immediately, on coming to know about the said order, the petitioner has compromised the matter with the complainant and the complaint under Section 138 of the Act was withdrawn later on.

In view of the above, I find merit in the petition and accordingly, the present petition is allowed and the impugned order dated 03.01.2020 passed by trial Court as well as FIR No.10 dated 08.02.2020 registered under Section 174-A IPC at Police Station Mansa Devi Complex, Panchkula, District Panchkula and all other subsequent proceedings arising thereof, are hereby quashed.

(ARVIND SINGH SANGWAN)
JUDGE

24.09.2020

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No