IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-18225 of 2020
Date of decision : 09.11.2020

Nirmal …..Petitioner

Versus

State of Haryana …..Respondents

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Mohit Garg, Advocate for the petitioner

Ms. Dimple Jain, AAG Haryana for the respondent

ALKA SARIN, J.

Heard through video conferencing.

This petition has been filed under Section 482 CrPC for quashing of FIR No.419 registered under Section 174A IPC dated 12.06.2020 registered at Police Station HTM Hissar, District Hissar (Annexure P-5).

The brief facts of the case are that the petitioner and her husband, Sh. Purushottam Beniwal, had taken a cash credit loan of Rs.23,70,000/- and term loan of Rs.6,20,000/- from HDFC Bank. A cheque for Rs.29,90,000/- was issued by the petitioner towards partial discharge of the debt. When the said cheque was not cleared and bounced, HDFC Bank filed a complaint against her and her husband under the provisions of the

Negotiable Instruments Act, 1881. In those proceedings, vide order dated 25.11.2019 (Annexure P-2), the petitioner was declared a proclaimed offender by the JMIC, Hisar for her absence to appear before the Court. On 14.12.2019 the complaint filed by HDFC Bank was settled and was withdrawn by the bank (Annexure P-4). However, since the petitioner had been declared as a proclaimed offender on 25.11.2019, on 12.06.2020 the impugned FIR was registered against her under Section 174A IPC.

Learned counsel for the petitioner contended that the petitioner was not aware about the complaint against her and, therefore, she could not appear before learned JMIC, Hisar. He further submitted that since the substantive offence already stood compromised between the accused and HDFC Bank, the proceedings under Section 174A IPC also deserved to be set aside. He relied upon the decisions in **'Rajneesh Khanna vs. State of Haryana & Anr.'** [2017(3) L.A.R. 555] and **'Ved Parkash vs. State of Haryana'** [CRM-M-21242 of 2018 and CRM-M-21226 of 2018 decided on 21.05.2019]. *Per contra*, learned counsel for the respondent submitted that both the offences were different and under different provisions of the law and, as such, there was no basis for quashing the impugned FIR.

I have heard learned counsel for the parties. The facts of the present case reveal that the impugned FIR (Annexure P-5) was registered under Section 174A IPC on account of the petitioner having been declared a proclaimed offender. However, subsequent to the passing of the order declaring her as a proclaimed offender, she stands discharged on the basis of the compromise in the proceedings under Section 138 of the Negotiable Instruments Act, 1881 wherein the HDFC Bank withdrew it's complaint. In such circumstances, the continuation of the prosecution of the petitioner under Section 174 IPC would be nothing but an abuse of the process of law.

Accordingly, in view of the facts and circumstance of the case and also in view of the judgments relied upon by the counsel for the petitioner, this petition is allowed and FIR No.419 registered under Section 174A IPC dated 12.06.2020 at Police Station HTM Hissar, District Hissar (Annexure P-5) is hereby quashed along with all the subsequent proceedings.

Allowed accordingly.

(ALKA SARIN)
JUDGE

09.11.2020
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NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO