

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

224

CRM-M-27476 of 2020

Date of decision :-10.11.2020

Harjinder Singh

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Alok Mittal, Advocate for the petitioner.

Mr. Abhinash Jain, DAG, Haryana
for the State-respondent No.1.

SUVIR SEHGAL, J.

The hearing of this petition has been taken up through video conferencing due to outbreak of Coronavirus (Covid-19) pandemic.

Instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973, for quashing of FIR No.47 dated 24.01.2020, Annexure P-1, registered under Section 174-A of the Indian Penal Code, 1860, at Police Station Sector 5, Panchkula and all subsequent proceedings arising thereunder.

Facts, in brief, leading to the filing of the present petition are that a complaint under Section 138 of the Negotiable Instruments Act, 1881, (for short "N.I. Act") read with Section 420 IPC was filed against M/s Kohinoor Broadcastings Corporation Limited and Harinder Singh, Director of the Company. The petitioner was summoned in the aforesaid complaint, however, due to change in address and wrong mentioning of the name of the petitioner, service could not be effected upon him. The petitioner was declared as a proclaimed person by the Court of JMIC, Panchkula vide order

dated 05.12.2019, Annexure P-3, and subsequent thereto, the impugned FIR came to be lodged against him. Upon coming to know the factum of the registration of the FIR, the petitioner filed CRM-M-23180-2020. Vide order dated 18.08.2020, Annexure P-4, this Court disposed of the petition by staying the operation of the impugned order for a period of 15 days to enable the petitioner to appear before the trial Court and move an application for regular bail, on which the trial court was directed to release him on furnishing adequate bail and surety bond to its satisfaction. In compliance of the said order, the petitioner surrendered before the trial Court, filed an application and was granted regular bail. Subsequently he settled the matter with the complainant and vide order dated 26.08.2020, Annexure P-5, the complaint was withdrawn after the payment was made by the petitioner.

Counsel for the petitioner has referred to the 'zimini' orders appended as Annexure P-2 to submit that the petitioner was never served in the complaint instituted under the NI Act due to the wrong mention of his name as "Harinder Singh" instead of "Harjinder Singh" and also because of the change in his address. According to the counsel, the petitioner had no knowledge of the pendency of the complaint. Still further, he submits that as the matter has now been compromised, complaint under Section 138 of NI Act has been withdrawn, there does not remain any dispute and the pendency of the proceedings under the impugned FIR cannot be sustained.

Opposing the petition, counsel for the respondent No.1-State has submitted that the petitioner was declared as a proclaimed person after following the due process of law. According to him, the impugned FIR was registered on the directions of the Court and the compromise between the

petitioner and the complainant has no impact on the proceedings under the FIR. He has filed the reply on behalf of the State which is taken on record.

I have considered the rival submissions of the counsel for the parties.

A perusal of the order dated 26.08.2020, Annexure P-5, passed by the trial Court shows that the petitioner and the complainant have entered into a compromise under which the petitioner has given a bank draft of Rs.1,52,0724/- to the complainant and the complainant made a statement before the trial Court that he does not want to proceed with the complaint and seeks its withdrawal. Consequently, the complaint under the NI Act stood withdrawn. This factual position stands unrebutted on the record.

Still further, counsel for the petitioner submits that in pursuance to the order dated 18.08.2020, Annexure P-4, passed by this Court, the petitioner appeared before the trial Court and joined the proceedings. In such a situation, the continuation of the criminal proceedings under Section 174-A IPC, would be nothing but an abuse of the process of the Court. The legal position in this regard is well settled. This Court in CRM-M-5895 of 2012 '**Raj Kumar versus State of Haryana**' decided on 13.09.2012; **Vikas Sharma versus Gurpreet Singh Kohli**, 2017 (3) LAR 584; **Rajneesh Khanna versus State of Haryana**, 2017 (3) LAR 555; CRM-M-18844 of 2020 '**Amit Kumar versus State of Haryana and another**' decided on 30.10.2020 and CRM-M-30999-2020 '**Satish versus State of Haryana**' decided on 09.10.2020 has held that that in view of the amicable settlement between the parties and the withdrawal of the main petition under Section 138 of the NI Act, continuation of the proceedings under Section 174-A IPC would be an abuse of the process of the Court.

Accordingly, the present petition is allowed and the impugned FIR No.47 dated 24.01.2020, Annexure P-1, registered under Section 174-A IPC at Police Station Sector-5, Panchkula along with all subsequent proceedings emanating therefrom are hereby quashed.

10.11.2020
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned : Yes/No
Whether Reportable : Yes/No