

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

121

CRM-M-40851-2020

Date of Decision:07.12.2020

Balwant Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. Suresh Kumar Kaushik, Advocate,
for the petitioner.

Mr. Bhupender Singh, D.A.G., Haryana.

HARI PAL VERMA, J.(Oral)

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

Petitioner has filed the present petition under Section 482 Cr.P.C. for quashing/setting aside the order dated 09.09.2019(Annexure P-2) passed by learned Judicial Magistrate 1st Class, Rewari, whereby the petitioner was declared as a proclaimed person and intimation in this regard was sent to the concerned SHO for taking appropriate legal action against the petitioner-accused. Prayer has also been made for quashing of FIR No.70 dated 04.02.2020 registered under Section 174-A IPC at Police Station Model Town Rewari, District Rewari (Annexure P-3) along with all subsequent proceedings, in view of order dated 02.03.2020.

Learned counsel for the petitioner has argued that the complaint filed by the complainant-Mitersain against the petitioner under Sections 138

& 142 of the Negotiable Instruments Act(for short the “N.I. Act”) was withdrawn and the petitioner was acquitted from notice of accusation framed against him under Section 138 of the N.I. Act vide judgment dated 02.03.2020. He has further argued that once the complaint filed under Section 138 of the N.I. Act has been withdrawn by the complainant, the procedure under Section 174-A IPC shall not be nothing, but an abuse of process of law. He relies upon the order dated 24.09.2020 passed by this Court in **CRM-M-16999-2020(Vishal Parashar Versus State of Haryana and another)**.

Learned State Counsel does not dispute the fact that the complaint filed by the complainant under Section 138 of the N.I. Act has been withdrawn. Since the petitioner has not appeared before the trial court, he has rightly been proceeded under Section 174-A IPC and was declared as a proclaimed person. He further submits that the petitioner has also been declared proclaimed person in another case of similar nature and in this manner, he is a habitual offender.

Heard learned counsel for the parties.

The judgment in Vishal Parashar's case(supra) has been passed relying upon the decisions rendered by this Court in Vikas Sharma Versus Gurpreet Singh Kohli and another, 2017(3) L.A.R. 584 and Microqual Techno Limited and others Versus State of Haryana and another, 2015(32) R.C.R.(Crl.) 790. In case of Vikas Sharma and Microqual Techno Limited's cases(supra), in identical circumstances, this Court has held that since main petition filed under Section 138 of the N.I.Act stands withdrawn and the matter having been settled between the parties amicably, continuation of proceedings under Section 174-A IPC shall

be nothing, but an abuse of process of law.

Accordingly, by relying upon the judgment passed in Vikas Sharma and Microqual Techno Limited's cases(supra), this Court has no hesitation to quash the present impugned order dated 09.09.2019(Annexure P-2) passed by learned Judicial Magistrate 1st Class, Rewari, whereby the petitioner has been declared as a proclaimed person as he has not appeared before the trial court and it is on account of this fact, he did not come to know that the matter has been compromised. The proceedings under Section 138 of the N.I. Act are otherwise summary proceedings and virtually it being for recovery of money.

In view of the above, the present petition is allowed and the impugned order dated 09.09.2019(Annexure P-2), whereby the petitioner was declared as a proclaimed person as well as FIR No.70 dated 04.02.2020 filed under Section 174-A IPC, registered at Police Station Model Town Rewari, District Rewari and all other subsequent proceedings arising therefrom, are hereby quashed.

December 07, 2020
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No