

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

114

CRM-M-11437-2021
Date of decision:15.03.2021

SUNIL KUMAR ARYAN

...PETITIONER

VERSUS

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Pradeep Chhoker, Advocate
for the petitioner.

SUVIR SEHGAL J. (ORAL)

The Court has been convened through video conferencing due to Covid-19 pandemic.

Instant petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of order dated 20.03.2020, Annexure P-3, passed by the JMIC, Panipat, whereby the petitioner has been declared as a Proclaimed Person and for quashing of FIR No.0890 dated 09.12.2020, for offence under Section 174-A of Indian Penal Code, registered at Police Station Panipat City, District Panipat, Annexure P-4.

Facts, in brief, are that a complaint, Annexure P-1, was filed against the accused-petitioner under Sections 138/142 of the Negotiable

Instruments Act, 1881, (for short – “NI Act”) on account of the fact that the petitioner had given a cheque of Rs.50,000/- to the complainant in discharge of his legal obligation, which on presentation was dishonored vide memo dated 08.01.2019, on account of insufficient funds. The petitioner was summoned in the complaint and when he failed to appear, proceedings under Section 82 of the Code of Criminal Procedure were initiated and he was declared as a Proclaimed person vide impugned order dated 20.03.2020, Annexure P-3. Impugned FIR, Annexure P-4, under Section 174-A was lodged against him as a consequence. In the meanwhile, the petitioner compromised the matter with the complainant and paid back the money under the cheque to him and the complaint filed by the complainant was withdrawn vide order dated 26.02.2021, Annexure P-5.

Counsel for the petitioner has contended that the petitioner was never served before the trial court, neither the summoning orders were received by him nor the mandatory procedure as prescribed under Section 82 of the Code was complied with before declaring the petitioner as a proclaimed person. He has referred to the zimini order dated 09.10.2019, Annexure P-2, to submit that the issuance of proclamation was ordered by the trial court, despite the fact that the non-bailable warrants issued in his name had been received back unexecuted. Still further, he submits that the dispute has been compromised between him and the complainant, who has withdrawn the complaint, Annexure P-1, therefore, the order, Annexure P-3, and pendency of the proceedings under the impugned FIR cannot be sustained.

Notice of motion.

On asking of the Court, Mr. Gurmeet Singh, AAG, Haryana, who has been served within the advance copy of the petition, accepts notice on behalf of the respondent-State. He has opposed the petition and submitted that the petitioner was declared as a proclaimed person after following the procedure as prescribed in the Code and the impugned FIR has been registered against him in compliance of the order, Annexure P-3, passed by the trial court.

I have considered the submissions of the parties.

Impugned FIR is an outcome of the order declaring the petitioner as a proclaimed person in proceedings initiated against him under Section 138 of the NI Act, which stands settled as the complainant has withdrawn the complaint and the proceedings against the accused-petitioner have been dropped. In such circumstances, the order declaring the petitioner as a proclaimed person as well as the continuation of his prosecution under Section 174 IPC cannot be permitted to continue. Reference in this connection is made to the judgments of this Court in **Microqual Techno Limited and others versus State of Haryana and another**, 2015 (32) RCR (Criminal) 790; **Rajneesh Khanna versus State of Haryana and another**, 2017 (3) LAR 555 and **CRM-M-32612 of 2020, Surender Singh versus State of Haryana and another** decided on 12.01.2021.

Accordingly, the petition is allowed. The impugned order dated 20.03.2020, Annexure P-3, passed by the JMIC, Panipat and the impugned FIR bearing No.0890 dated 09.12.2020, Annexure P-4, along

with all consequential proceedings emanating therefrom are quashed, subject to deposit of costs of Rs.5,000/- with the Poor Patient Welfare Fund, PGIMER, Sector 12, Chandigarh.

15.03.2021
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No