

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

121

CRM-M-9540 of 2021
Date of Decision: 01.03.2021

Murli Jha

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. A.D.S. Sukhija, Advocate,
for the petitioner.

SUVIR SEHGAL, J. (Oral)

The hearing of the petitioner has been taken up through video conferencing on account of outbreak of Covid-19 pandemic.

Instant petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of FIR No.0126 registered under Section 174-A IPC dated 01.03.2017 at Police Station DLF Phase-1, Gurugram (Annexure P-3) along with all consequential proceedings.

Shorn of unnecessary details, suffice is to notice that a complaint was filed against the accused-petitioner under Section 138 of the Negotiable Instruments Act, 1881 (for short "NI Act") wherein the petitioner could not be served. By order dated 25.03.2013 (Annexure P-1) the trial Court ordered the summoning of the petitioner through proclamation under Section 82 of the Code and when the petitioner did not appear after affixation, he was declared as proclaimed person by virtue of order dated 20.05.2013 (Annexure P-2) and intimation was sent to the police authorities to initiate proceedings against the petitioner under Section 174-A IPC, as a result of which the impugned FIR (Annexure P-3) was registered against him.

Counsel for the petitioner has argued that the petitioner has put

in appearance before the trial Court in the complaint case in pursuance to the

interim anticipatory bail order passed by this Court on 08.01.2018 in CRM-M-34128 of 2017. He submits that the matter has been compromised between the petitioner and the complainant, who upon having received the payment under the cheque in dispute has withdrawn the complaint filed under NI Act on 27.11.2019 (Annexure P-5). Still further, he submits that the petitioner has deposited the costs of Rs.25,000/- with the District Legal Services Authority, Gurgaon and has been released on bail by the trial Court. The interim order whereby he was granted anticipatory bail was made absolute by this Court on 01.03.2018 (Annexure P-4). It is his argument that as the dispute which resulted in the filing of the complaint under the NI Act stands settled and the complaint has been withdrawn, therefore, the pendency of the proceedings under the impugned FIR cannot be sustained.

Notice of motion.

Mr. Rajiv Sidhu, DAG, Haryana, who has been served with an advance copy of the petition, accepts notice on behalf of the respondent-State.

Mr. Sidhu, upon instructions from ASI Hari Om, has opposed the petition and submitted that the petitioner was declared as a proclaimed person after following the due process of law and the impugned FIR was registered against him in compliance of order dated 20.05.2013 (Annexure P-3).

I have considered the rival submissions of the parties. The FIR is an outcome of the order declaring the petitioner as a proclaimed person in proceedings initiated under Section 138 of NI Act which stands settled, the complaint has been withdrawn and the proceedings against the accused-

petitioner were dropped. In such circumstances, the continuation of prosecution under Section 174-A IPC in pursuance to the orders passed by the trial Court cannot be permitted to continue. Reference in this connection may be made to the judgments of this Court in *Microqual Techno Limited and others v. State of Haryana and another*, 2015 (32) R.C.R. (Criminal) 790; *Rajneesh Khanna v. State of Haryana and another*, 2017 (3) L.A.R. 555 and CRM-M-32612 of 2020, *Surender Singh v. State of Haryana and another* decided on 12.01.2021.

Accordingly, the petition is allowed. The impugned FIR bearing No.0126 registered under Section 174-A IPC dated 01.03.2017 at Police Station DLF Phase-1, Gurugram (Annexure P-3) along with all consequential proceedings emanated therefrom is quashed.

No order as to costs.

(SUVIR SEHGAL)
JUDGE

01.03.2021
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Whether speaking/reasoned Yes/No

Whether reportable Yes/No