

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-27714 of 2020

Date of Decision : 22 January, 2021

Ranbir Singh

.....Petitioner

VERSUS

State of Haryana & Anr.

....Respondents

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Rajeev Sharma (Raju), Advocate for the petitioner.

Ms. Dimple Jain, AAG, Haryana.

Mr. Ankit Rana, Advocate for respondent No. 2.

ALKA SARIN, J. (Oral)

Heard through video conferencing.

This is a petition under Section 482 Code of Criminal Procedure, 1973 (for short 'CrPC') for quashing of the impugned order dated 24.07.2019 (Annexure P-2) vide which learned Judicial Magistrate 1st Class, Ambala had declared the petitioner as a proclaimed offender in complaint case NACT No.960/2017 under Section 138 of the Negotiable Instruments Act, 1881 ('NI Act') and for quashing of FIR No.54 dated 12.02.2020 registered under Section 174-A of the Indian Penal Code, 1860 at Police Station Mullana, District Ambala.

The brief facts of the case are that respondent No.2 had filed a complaint against the petitioner under Section 138 of the 'NI Act' before the

Judicial Magistrate 1st Class, Ambala being NACT No.960/2017 titled *Shiv Kumar v. Ranvir Singh*. The Judicial Magistrate 1st Class, Ambala vide order dated 01.06.2017 had summoned the petitioner for 18.08.2017 to stand trial. It is averred by the petitioner that the summons issued against the petitioner were never served upon him and that the petitioner was never aware about the pendency of the complaint. Thereafter, vide order dated 24.07.2019, the Judicial Magistrate 1st Class, Ambala declared the petitioner as proclaimed person. Subsequently, the police of Police Station Mullana, District Ambala registered FIR No.54 dated 12.02.2020 under Section 174-A IPC against the petitioner in compliance of order dated 24.07.2019. It is further the case set up that the petitioner meanwhile settled the matter with respondent No.2 and made payment of the amount of dishonoured cheque to the complainant. On the basis of the compromise, the complaint was dismissed as withdrawn vide order dated 28.08.2020 (Annexure P-4).

Learned counsel for the petitioner has contended that the petitioner was not aware of the complaint against him and that he was never served the summons. It is further submitted by the learned counsel for the petitioner that since the substantive offence already stands compromised between the accused-petitioner and respondent No.2, proceedings under Section 174-A IPC also deserve to be set aside. He has relied upon the decision in *Rajesh Khanna v. State of Haryana and another, 2017 (3) LAR 555 and Ved Prakash v. State of Haryana, CRM-M-21242-2018 and CRM-M-21260-2018* decided on 25.01.2019.

Per contra the learned counsel for the State has filed a reply by way of affidavit of Rajnish Kumar, HPS, Deputy Superintendent of Police, Barara, Ambala wherein it has been stated that the deponent was not aware of any compromise and further that the petitioner had intentionally not

appeared despite the summons being served. Mr. Ankit Rana, Advocate has put in appearance on behalf of respondent No.2 (complainant) and has stated that the matter under the 'NI Act' stands compromised between the parties.

I have heard learned counsel for the parties. The facts of the present case reveal that the impugned FIR (Annexure P-3) was registered under Section 174-A IPC on account of the petitioner having been declared a proclaimed offender in proceedings under Section 138 of the 'NI Act'. However, subsequent to the passing of the order declaring him as a proclaimed offender, he stands discharged on the basis of the compromise in the proceedings under Section 138 of the 'NI Act' wherein respondent No.2 withdrew his complaint as is clear from the order dated 28.08.2020 (Annexure P-4). In such circumstances, the continuation of the prosecution of the petitioner under Section 174-A 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 impugned order dated 24.07.2019 (Annexure P-2) passed by Judicial Magistrate 1st Class, Ambala declaring the petitioner as proclaimed offender in complaint case NACT No.960/2017 under Section 138 of the 'NI Act' and FIR No.54 dated 12.02.2020 (Annexure P-3) registered under Section 174-A IPC at Police Station Mullana, District Ambala, are both quashed along with all subsequent proceedings.

(ALKA SARIN)
JUDGE

22nd January, 2021
jk

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