

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

203

**CRM-M-34871 of 2020
Date of Decision: 18.01.2021**

Prabhjot Singh

..... Petitioner

Versus

State of U.T. Chandigarh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Ms. Ekta Sharma, Advocate,
for the petitioner.

Mr. Rajiv Sharma, APP, U.T. Chandigarh.

AMOL RATTAN SINGH, J. (ORAL)

Case heard by video conferencing.

This petition has been filed seeking quashing of FIR no.0272, dated 01.08.2018, registered for the alleged commission of an offence punishable under Section 174-A of the IPC, at Police Station Sector-34, Chandigarh, as also all other subsequent proceedings arising therefrom, on the basis of a compromise arrived at between the petitioner and respondent no.3.

Pursuant to the order dated October 30, 2020, the report of the learned JMIC, Chandigarh, dated 04.01.2021, is on record, stating therein that with this court having directed that the parties get their statements recorded in terms of any compromise reached upto 07.12.2020, initially on 07.12.2020 and 09.12.2020,

counsel for the complainant had sought an adjournment, with the matter adjourned by that court to 23.12.2020, on which date also the parties did not turn up to get their statements recorded.

Learned counsel for the petitioner however submits that simply because the complainant in the proceedings under Section 138 of the Negotiable Instruments Act, 1881, is choosing not to appear before the trial court to record his statement as regards the proceedings under Section 174-A of the IPC (which otherwise he may not have anything to do with after having got the complaint itself compounded on the basis of a compromise reached between the parties), the petitioner does not deserve to be proceeded further against under the provisions of Section 174-A of the IPC.

She further submits that in fact after the petitioner was declared to be a proclaimed offender vide the order dated 24.10.2017 (copy Annexure P-1), he thereafter surrendered before the trial court as reflected in the order dated 08.03.2018 (copy Annexure P-2), and was admitted to bail by that court, after which he continued to appear in those proceedings and was in fact convicted by the trial court for the commission of an offence punishable under Section 138 of the Act of 1881, but thereafter the matter was compounded on a compromise reached at the stage of an appeal against that order.

The contention is therefore, that once the petitioner had himself surrendered on 08.03.2018 and had continued to appear before the trial court as also before the appellate court, the order declaring him to be a proclaimed offender should have been withdrawn and the FIR under the provisions of Section 174-A of the IPC should not have been registered on 01.08.2018, i.e. five months after his surrender.

Learned Additional Public Prosecutor, U. T. of course could not deny the factual position as also the fact that the petitioner had surrendered as recorded in the order of the learned trial court, with the matter subsequently compounded as regards the criminal complaint filed under the provisions of Section 138 of the Act of 1881.

Having considered the matter, I agree with learned counsel for the petitioner, with the petitioner having surrendered before the trial court and never having abused the process of law thereafter, with him also shown to be present even in the order of conviction by the trial court on 28.11.2018, in fact the FIR itself would seem to be misplaced.

Consequently, this petition is allowed, with the impugned FIR no.0272, dated 01.08.2018, registered at Police Station Sector 34, Chandigarh, for the alleged commission of an offence punishable under Section 174-A of the IPC, along with all proceedings emanating therefrom, hereby quashed.

January 18, 2021
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No