

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.266

CRM-M-10105-2022(O&M)
Date of decision: 12.05.2022

SUDESH RANI

....Petitioner

Versus

STATE OF HARYANA

....Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Priyanshu Kamra, Advocate
for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

* * *

VINOD S. BHARDWAJ, J. (Oral)

The present petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of FIR No.0631, dated 20.08.2021, under Section 174-A of Indian Penal Code, registered at Police Station Barwala, District Hisar (Annexure P-1) and all the consequential proceedings arising therefrom.

Learned counsel for the petitioner contends that the instant case emanates from a complaint case bearing CIS No.1508/2018 titled “Sarva Haryana Gramin Bank Vs. Sudesh Rani” instituted under Section 138 of the Negotiable Instruments Act 1881. The petitioner was declared as a proclaimed person in the said case, vide order dated 20.08.2021, as she has failed to put up appearance before the Court. He contends that the proceedings in the complaint case instituted under Section 138 of the

Negotiable Instruments Act already stands settled between the bank as well as the petitioner and has referred to the Communication dated 03.01.2022 (Annexure P-3), sent by the bank. It is categorically stated in the said communication that loan amount already stands settled under the OTS policy of the bank and that the entire amount stands deposited. There is no due pending against the same.

As a mark of settlement of the dispute amongst the petitioner and the bank, the criminal complaint instituted by the complainant-Bank was withdrawn, vide order dated 09.02.2022, passed by the Judicial Magistrate, First Class (Exclusive Court of the Negotiable Instruments Act) Hisar.

Learned counsel submits that the petitioner is suffering from mental ailments, since the year 2016 and is under continuous and regular treatment. He further placed on record the medical prescription in this regard as Annexure P-5. It is argued by the learned counsel that the petitioner had no intention to disregard the proceedings before the Court and that even otherwise, once the primary dispute has been resolved, no ends of justice would be advanced by prosecuting the petitioner for non-appearance in the main criminal complaint which already stands settled.

Reply to the petition has been filed by way of an affidavit of Sh. Kaptan Singh, HPS, Deputy Superintendent of Police, Law and Order Hisar, wherein the aforesaid factum of settlement amongst the parties is acknowledged. It is however pointed out that the absence of the petitioner was deliberate and that she failed to appear before the trial Court despite various notices and eventually the proclamation was issued under Section 82 and 83 of the Code of Criminal Procedure. It is also pointed out that

after the proclamation, the notices were duly pasted on the front door. However, the factum of settlement and the subsequent withdrawal of the complaint is not disputed.

I have considered the rival submissions advanced by learned counsel appearing on behalf of the parties.

A Coordinate Bench of this Court in the matter of Ashok Madan Vs. State of Haryana and Another reported as 2020(4) R.C.R (Criminal) 87 has held as under:-

“The petitioner filed a petition for quashing of the complaint and summoning order in this Court. Personal appearance of the petitioner was exempted and he was permitted to put in appearance through his counsel. The petitioner claims that he complied with the same. However, thereafter, proceedings under Section 82 of the Code of Criminal Procedure ('Cr.P.C.' for short) were initiated against the petitioner, when on application for cancellation of warrants of arrest was moved by the petitioner, the Court allowed bail to him. Thereafter, the petitioner appeared before the Court. Once again, proceedings under Section 82 Cr.P.C. to declare the petitioner proclaimed person were initiated as the petitioner was subsequently also found absent on 14.09.2019, which resulted into FIR No.446 dated 21.08.2017 under Section 174A of the Indian Penal Code.

No doubt, the learned counsel for the respondent has vehemently argued that the offence under Section 174A I.P.C is independent of the main case, therefore, merely because the main case has been dismissed for want of prosecution, the present petition cannot be allowed, however, keeping in view the fact that the present FIR was registered only on account of absence from the proceedings

in the main case which had been subsequently regularised by the Court while granting bail to the petitioner, the default stood condoned. In such circumstances, continuation of proceeding under Section 174-A IPC shall be abuse of the process of Court.”

In view of the facts noticed above and the judgments of this Court, I deem it fit that further proceedings in the FIR in question would be an abuse of the process of law.

Accordingly, the present petition is allowed and FIR No.0631, dated 20.08.2021 under Section 174-A of Indian Penal Code, registered at Police Station Barwala, District Hisar (Annexure P-1) and all the consequential proceedings arising therefrom are quashed qua the petitioner, subject to payment of cost of Rs.5,000/- with the District Legal Services Authority, Hisar.

12.05.2022
Amandeep

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No