

CRM-M-12832-2021

1

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

242

CRM-M-12832-2021 (O&M)

Date of decision: 06.12.2022

DAYAL SINGH

....Petitioner

Versus

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Vimal Kumar Gupta, Advocate
for the petitioner.

Ms. Aditi Girdhar, AAG Haryana.

Mr. Jogender Pundir, Advocate for
Mr. Manoj Pundir, Advocate
for respondent No.2.

AMAN CHAUDHARY. J.

Present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.0913 dated 05.08.2019, Annexure P-17, under Section 174-A of the IPC, registered at Police Station Jagadhri City, District Yamuna Nagar and all other consequential proceedings arising therefrom.

Learned counsel contends that in the complaint filed against him under Section 138 of the Negotiable Instruments Act, he was released on bail. It is his further submission that during the pendency of the complaint a compromise was effected between the parties on 09.05.2017 on which date, statement of petitioner and respondent No.2 was made before the Judicial Magistrate Ist Class, Yamuna Nagar and the complaint itself was withdrawn, Annexure P-5. Thereafter the cheque was handed over in terms of the compromise which got dishonoured leading to lodging of

another complaint and another compromise dated 17.01.2018 was executed between the parties, as per which also the complaint was withdrawn vide order dated 09.04.2018, Annexure P-11. The petitioner believing that respondent No.2 had withdrawn the complaint failed to appear before the Court without knowing that the complaint had been restored on 06.10.2018 by the learned Judicial Magistrate Ist Class, leading to petitioner having been declared proclaimed person consequent thereto FIR under Section 174-A IPC was registered against the petitioner. On coming to know of the said order the petitioner approached this Court by filing the present petition, wherein this Court vide order dated 22.03.2021, notice of motion was issued and proceedings in FIR registered under Section 174-A IPC were stayed, while recording that the petitioner in pursuance to order dated 24.09.2020, Annexure P-18 passed by this Court in CRM-M-29416-2020 filed under Section 438 Cr.P.C. for grant of anticipatory bail in the aforesaid FIR, had surrendered before the trial Court and deposited the costs of Rs.25,000/- as directed in the said order, whereafter, he was released on bail. Learned counsel for the petitioner submits that once in terms of order dated 24.09.2020, Annexure P-18, the petitioner had surrendered before the trial Court and was released on bail, the proceedings under Section 174-A IPC initiated are an abuse of process of law. Furthermore, as has been recorded in the order dated 24.09.2020, passed by this Court while granting relief to the petitioner in the application filed under Section 438 Cr.PC, it was recorded that the petitioner, who was Sarpanch of the village had unblemished antecedents and while referring to para 12 of the petition, the counsel had asserted that the petitioner had paid

back the entire amount to the complainant.

Learned counsel for the respondents submit that the petitioner was rightly declared proclaimed offender due to his non-appearance, consequently, the FIR in question has been registered. However, learned counsel for the complainant-respondent affirms that the petitioner had surrendered and released on bail and is appearing in the proceedings that are now going on *inter se* the parties.

Heard.

Adverting to the facts of the present case inasmuch as the petitioner, who though had absented from the proceedings before the trial court, however, having approached this Court was granted and directed him to surrender before the trial Court, which the petitioner did and was granted bail. At times, the accused or his counsel can be prevented by sufficient reasons to put an appearance before the Court on a given date and every such absence cannot necessarily be construed as deliberate and willful. However, it is incumbent upon him to join the proceedings, before the trial Court, for the culmination of the same. Considering the fact that the petitioner had expressed his readiness and willingness to surrender and join the proceedings as is reflected in the order dated 24.09.2020 passed by this Court in CRM-M-29416-2020, and had joined proceedings, stated to be going on, which is rather helpful in expediting the trial, thus, the continuation of proceedings in the FIR lodged as a consequence of the order declaring the petitioner proclaimed offender, which is primarily to compel and secure the presence of the accused to face trial and establish the rule of law so as to ensure finalization of the proceedings, would be an abuse of

process of law. Hence, the present petition deserves to be allowed.

Resultantly, the present petition is allowed. The impugned FIR No.913 dated 05.08.2019, Annexure P-17, is hereby quashed.

(AMAN CHAUDHARY)
JUDGE

December 06, 2022

S.Sharma(syr)/GSV

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>