

In the High Court of Punjab and Haryana at Chandigarh

CRM-M No. 14877 of 2022

Date of Decision: 07.4.2022

Jarnail Singh Bajwa

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Rohit Aggarwal, Advocate for
Mr. Navjot Singh, Advocate
for the petitioner.

Ms. Bhavna Gupta, DAG, Punjab.

SURESHWAR THAKUR, J. (ORAL)

1. Through the instant petition, filed under Section 482 Cr.P.C., the petitioner seeks quashing of FIR No. 233 dated 22.10.2020 registered at Police Station City Kharar, SAS Nagar, Mohali (Annexure P-1), constituting therein an offence, under Sections 174-A IPC, and, also of all the consequential proceedings arising therefrom.

2. Since Annexure P-1 is tersely drawn, thereupon, its contents are *ad verbatim* extracted herein.

“Copy Order, Order No. 525 Dated 22.10.20 From Shilpi Gupta, PCS. Addl. Civil Judge (Sr. Divn.) cum SDJM, Kharar To The SHO Police Station City Kharar.

Sub Direction for issuance FIR u/s 174A IPC against Bajwa Developers Ltd. Through its M.D. Jarnail Singh Bajwa Sunny Enclave Desu Majra Tehsil Kharar District Mohali in complaint case titled as Dayal Singh vs Bajwa Developers under Section 138 NI Act NACT/246/2018 Memo, In reference to the subject cited above, it is stated that above said accused

Jarnail Singh Bajwa has been declared proclaimed offender vide order dated 20.10.2020 of the undersigned in the above noted case. Therefore, FIR u/s 174 A IPC be registered against him immediately by making Reader of this court namely Smt. Rajwinder Kaur as complainant. It is further directed that one copy of this FIR be sent to the court of undersigned so that, it can be annexed with the said file. Sd/- Shilpi Gupta. PCS, Add. Civil Judge (Sr. Divn) cum SDJM Kharar. ”

3. Apparently, the offence constituted in Annexure P-1, is an offence under Section 174-A IPC, and, has been embodied in Annexure P-1, in pursuance to an order made on 22.10.2020, by the learned Magistrate concerned. Obviously, the foundational fact resulting in the making of the above order, by the learned Magistrate concerned, upon the police to register the afore FIR, against the present petitioner, is comprised, in the factum of his earlier thereto becoming declared as a proclaimed offender.

4. Therefore, the validity of the afore made order, is imperatively required to be tested by this Court, before this Court proceeding to in consequence thereof, especially depending upon its becoming annulled or upheld, to either accept the petition or dismiss it. However, a perusal of Annexure P-3 reveals, that the order declaring the petitioner herein as a proclaimed offender, became recalled in pursuance of a compromise, becoming entered into inter se the petitioner, and, the respondent-complainant. Therefore, the efficacy of the above factum probandum, which rather led the learned Magistrate concerned, to order the SHO concerned, to register the FIR (supra) against the accused, for an offence under Section 174-A IPC, obviously becomes scuttled. Moreover, when the order

declaring the petitioner as a proclaimed offender, has also been recalled, and, set aside, by the learned Judicial Magistrate concerned, thereupon, the FIR, as carried in Annexure P-1, and, constituting therein an offence under Section 174-A IPC, is also amenable to be quashed, and, set aside.

5. Consequently, the present petition is allowed, and, the FIR (supra), and, also all subsequent proceedings arising therefrom, are quashed qua the petitioner.

6. No notice is required to be given to respondent No. 2, as it is revealed by Annexure P-3, that he had compromised the relevant *lis* with the petitioner herein.

(SURESHWAR THAKUR)
JUDGE

April 07, 2022
Gurpreet/DK Kamra

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No