

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

202

CRM-M-31539 of 2021 (O&M)

DECIDED ON: 18th May, 2022

Poonam Kaushik

.....PETITIONER

VERSUS

State of Haryana and another

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Aman Dhira, Advocate for petitioner.

Ms. Geeta Sharma, DAG Haryana.

Mr. L.R. Sharma, Advocate for complainant.

AVNEESH JHINGAN, J (ORAL)

This petition under Section 482 Cr.P.C. was filed for quashing of impugned order dated 5.12.2015 passed in Criminal Complaint No. 2367 of 2013 dated 2.7.2021, titled as Prem Sharma Vs. Poonam Kaushik, under Section 138 of Negotiable Instruments Act, 1881, (for short 'the Act') whereby the petitioner was declared proclaimed person. Further prayer is for quashing of FIR No. 202 dated 28.5.2020, under Sections 174-A of IPC, 1860, registered at Police Station Quilla Panipat District Panipat.

On 17.1.2022, while issuing notice of motion, following order was passed:

"Learned counsel for the petitioner inter alia contends that before declaring the petitioner to be a proclaimed person no service was effected upon the petitioner in terms of Sections 66/82 Cr.P.C.; in any case, under order of this Court dated 17.07.2020, passed in CRM-M-18696-2020 Poonam Kaushik vs State of Haryana, through which the petitioner had sought anticipatory bail, the petitioner had duly appeared before the Trial Court and thereafter through order dated 01.11.2021 this Court has made absolute the aforesaid order of this Court dated 17.07.2020; after passing of the aforesaid orders of this Court and in the light of the petitioner's conduct, continuation of the

impugned proclamation proceedings is an abuse of the process of law; even otherwise in the proceedings under Section 138 of the Negotiable Instruments Act, 1881 in which the petitioner was declared a proclaimed person the petitioner already stands discharged by the Trial Court; the petitioner is a 42 year old lady and that she is also a government servant having an unblemished record.

In support of the above submissions learned counsel for the petitioner places reliance on the following judgments of this Court: -

1. Vikas Sharma vs Gurpreet Singh Kohli and another, decided on 13.09.2017 (CRM-M-32465-2017).

2. Ranbir Singh vs State of Haryana, decided on 22.01.2021 (CRM-M-27714-2020).

Notice of motion.

Mr. Sumit Jain, Addl. A.G., Haryana, accepts notice on behalf of the respondent-State and Mr. L.R. Sharma, Advocate, puts in appearance on behalf of the complainant and pray for time to argue the matter.

Adjourned to 18.05.2022.

Till the adjourned date, the proceedings in pursuance to the impugned order and the impugned FIR are stayed. "

Learned counsel for the petitioner submits that the petitioner appeared before the trial Court and was discharged in complaint under Section 138 of the Act. Further submission is that the proclamation was not in accordance with provision of Section 82 Cr.P.C.

He relies upon the decisions rendered by this Court in **Vikas Sharma vs. Gurpreet Singh Kohli and another** 2017, (3) L.A.R. 584, wherein, in similar circumstance, this Court held that continuation of proceedings under Section 174-A of IPC after conclusion of trial under Section 138 of the Act shall be nothing but an abuse of the process of law.

Learned State counsel opposes the prayer but is not in a position to dispute the fact that the petitioner appeared before the trial Court and complaint under Section 138 of the Act was decided where the petitioner was discharged.

Learned counsel for the complainant submits that the order discharging the petitioner has been challenged.

Heard learned counsel for the parties and perused the pleadings.

There is no dispute that petitioner was discharged in complaint. Continuation of proceedings under Section 174-A IPC would be an abuse of process of law.

Considering the facts and circumstances of the case in totality, impugned order, FIR mentioned above are quashed.

The petition is allowed.

Since the main case has been decided, the pending application, if any is rendered infructuous.

18th May, 2022

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**(AVNEESH JHINGAN)
JUDGE**

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