

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.239-A

Case No. : CRM-M-43398-2018

Date of Decision : December 12, 2022

Neki Ram Yadav		Petitioner
vs.		
State of Haryana and others		Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

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Present : Mr. Neeraj Yadav, Advocate
for the petitioner.

Mr. Karan Sharma, DAG, Haryana.

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GURBIR SINGH, J. :

This is a petition under Section 482 Cr.P.C. filed by the petitioner to quash the FIR No.493 dated 24.09.2017, registered under Section 174-A, at Police Station Faridabad Kotwali, District Faridabad (Annexure P-3), which is an offshoot of the order dated 20.09.2017 (Annexure P-1), passed by learned Judicial Magistrate Ist Class, Faridabad, declaring the petitioner as a proclaimed person.

Learned counsel for the petitioner has submitted that the petitioner was an accused in a complaint case filed under Section 138 of the Negotiable Instruments Act, 1881 (for short – the Act). He was declared a proclaimed person by the Court below vide order dated 20.09.2017 without recording its satisfaction as to whether the petitioner was evading service intentionally or not. Therefore, the said order is illegal, ultravires and is

against the principles of natural justice and also in contravention with the procedures mentioned in Section 82 of the Cr.P.C. In fact, the petitioner was totally unaware about issuance of summons or pendency of complaint in the Court requiring his presence because no notice, intimation or proclamation was served upon him.

It has further been brought to the notice of this Court that the complaint in question has already been dismissed as withdrawn. Learned counsel for the petitioner has also placed on record a copy of the order dated 29.08.2019 passed by learned Judicial Magistrate Ist Class, Faridabad, which shows that the parties had entered into compromise and the complaint under Section 138 of the Act has already been withdrawn.

Learned counsel for the petitioner has relied upon a judgment passed by a Co-ordinate Bench in **CRM-M-16641-2022 (O&M)** titled as **Chetan Malhotra vs. State of Haryana**, in which another judgment passed by this Court in the case of **Microqual Techno Limited and others vs. State of Haryana and another** reported as **2015 (32) RCR (Criminal) 790** has been followed.

Heard.

Since the main complaint filed under Section 138 of the Act stands dismissed as withdrawn, therefore, continuation of proceedings under Section 174-A of IPC shall be nothing but an abuse of the process of law.

Keeping in view the above-said facts and circumstances, the present petition is allowed and the impugned order dated 20.09.2017, passed by learned Judicial Magistrate Ist Class, Faridabad, declaring the

petitioner as a proclaimed person and FIR No.493 dated 24.09.2017, registered under Section 174-A, at Police Station Faridabad Kotwali, District Faridabad (Annexure P-3), and all other consequential proceedings arising therefrom, are hereby quashed.

All the pending miscellaneous applications, if any, stand disposed of in view of the above-said judgment.

December 12, 2022
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(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.