

**244 IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CRM-M-31292-2022

Date of Decision: 31.10.2022

Avtar Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE NAMIT KUMAR

Present:- Mr. G.S. Verma, Advocate
for the petitioner.

Mr. Ravinder Singh, AAG, Punjab.

None for respondent No.2.

NAMIT KUMAR, J. (ORAL)

This petition has been filed under Section 482 Cr.P.C. seeking for quashing of order dated 22.08.2019 passed by learned Sub Divisional Judicial Magistrate, Khanna, District Ludhiana(Annexure P-2) vide which the petitioner was declared as proclaimed offender and order dated 10.02.2021(Annexure P-3) whereby the salary of the petitioner has been ordered to be attached on the basis of application filed by respondent No.2 in complaint case bearing No.243/17 dated 10.07.2017 in case titled as “Ranjit Singh vs. Avtar Singh” offence under Section 138 of Negotiable Instruments Act, 1887 as amended up to(Annexure P-1) as the said case had been withdrawn by respondent No.2 on the basis of amicable settlement between the parties vide order dated 14.05.2022 passed in Lok Adalat(Annexure P-6).

Vide order dated 22.07.2022, while issuing notice of motion, following contentions of the petitioner were recorded:-

“Learned counsel appearing on behalf of the

petitioner contends that the proceedings in question had been instituted under Section 138 of the Negotiable Instruments Act, 1881 in complaint case bearing No. 243/17 dated 10.07.2017 in case titled as "Ranjit Singh versus Avtar Singh" wherein the petitioner was declared as proclaimed persons vide order dated 10.02.2021. He contends that the matter has already been amicably resolved between the parties and vide order dated 14.05.2022 passed in Lok Adalat (Annexure P-6), the complaint has already been withdrawn. He contends that continuation of the proceedings pursuant to the order dated 22.08.2019 (Annexure P-2) as well as the order dated 10.02.2021 would merely be an abuse of process of law.

Notice of motion for 31.10.2022.

In the meanwhile, subject to the petitioner depositing a cost of Rs.20,000/- within a period of 10 days with the Punjab State Legal Service Authority, Mohali, operation of the order dated 22.08.2019 (Annexure P-2) and the order dated 10.02.2021 (Annexure P-3) shall be kept in abeyance till the next date of hearing."

As per office report, service is complete, however, none has appeared on behalf of respondent No.2.

Learned counsel for the petitioner submits that in pursuance to the order dated 22.07.2022, cost of Rs.20,000/- has been deposited by the petitioner with the Punjab State Legal Service Authority, Mohali on 29.07.2022 and he has produced the receipt, which is taken on record.

He further submits that the main dispute which was under Section 138 of the Negotiable Instruments Act, out of which, proclamation proceedings have been emerged, had already been concluded vide order dated 14.05.2022 passed by the Presiding Officer, National Lok Adalat, Khanna as the matter had been compromised between the parties.

He submits that once the original proceedings have come to an end with the compromise between the parties, therefore, the present proclamation proceedings, whereby the petitioner was declared proclaimed offender arising out of the original proceedings should also come to an end. To support his

contention he relies upon the judgment of this Court passed in 'Aditya Goyal vs. State of Haryana' CRM-M-11269-2019 decided on 07.05.2019.

In the above said judgment, this Court has quashed the proceedings under Section 174-A of IPC where the main proceedings have already been concluded. The relevant portion from Aditya Goyal's case (Supra) is as under:-

*“Learned counsel for the petitioner has relied upon the decisions rendered by this Court in **Vikas Sharma vs. Gurpreet Singh Kohli and another (supra)**, 2017, (3) L.A.R. 584, **Microqual Techno Limited and others Vs. State of Haryana and another**, 2015 (32) RCR (Crl.) 790 and **Rajneesh Khanna Vs. State of Haryana and another**” 2017(3) L.A.R. 555, wherein, in an identical circumstance, this Court has held that since the main petition filed under Section 138 of the Act stands withdrawn in view of an amicable settlement between the parties, therefore, continuation of proceedings under Section 174-A of IPC shall be nothing but an abuse of the process of law.*

Learned State counsel, on instructions from the Investigating Officer, has not disputed the factual position.

After hearing learned counsel for the parties, I find merit in the present petition.

Since the main complaint filed by the complainant under Section 138 of the N.I. Act itself stands dismissed as withdrawn by the trial Court keeping in view the fact that petitioner has cleared the entire dues and on the direction of this Court, the petitioner has already appeared before the Investigating Officer and has also deposited the cost of `10,000/- with the Illaqa Magistrate, this Court is of the opinion that continuation of proceedings under Section 174-A IPC shall be an abuse of process of law.

Accordingly, in view of the facts and circumstance of the case and also in view of the judgments relied upon by the petitioner, this petition is allowed and order dated 03.12.2018 (Annexure P-1), passed by the trial Court in Criminal Complaint No. 1624/2017 dated 12.09.2017, filed under Section 138 of the N. I. Act, vide which, the petitioner has been declared a proclaimed person as well as other consequential proceedings arising therefrom including FIR No. 66 dated 01.02.2019, registered under Section 174-A IPC at Police Station Jagadhri City, District Yamuna Nagar (Annexure P-2) are hereby quashed.”

To the same effect, another judgment passed in 'Lakhwinder Singh versus State of Punjab' CRM-M-37155-2021 decided on 16.11.2021 also

supports the present case.

Learned State counsel has not disputed the fact that the matter has been compromised.

Since, the matter has been settled between the parties on the basis of compromise and vide order dated 14.05.2022(Annexure P-6) the complaint filed by respondent No.2 has been withdrawn, no fruitful purpose would be served in continuing with the proceedings whereby the petitioner has been declared as proclaimed offender vide order dated 22.08.2019(Annexure P-2) and his salary has been attached vide order dated 10.02.2021(Annexure P-3).

Consequently, the present petition is allowed and order dated 22.08.2019 (Annexure P-2) passed by learned Sub Divisional Judicial Magistrate, Khanna, District Ludhiana vide which the petitioner was declared proclaimed offender and the order dated 10.02.2021(Annexure P-3) whereby the salary of the petitioner was attached, are hereby set aside and quashed.

October 31, 2022
P.Bhatt

(NAMIT KUMAR)
JUDGE

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