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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-42476-2022

Date of decision: 21.10.2022

Javed Hassan @ Javed Khan

.....Petitioner

versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. S.S. Dinarpur, Advocate for the petitioner.

Mr. Neeraj Poswal, A.A.G., Haryana.

NAMIT KUMAR, J. (ORAL)

This petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.180 dated 11.02.2019 under Sections 174-A of IPC registered at Police Station Jagadhri City, District Yamuna Nagar (Annexure P-3) alongwith all subsequent proceedings initiated there under as well as order dated 09.01.2019 passed by Ld. JMIC, Jagadhri at Yamuna Nagar whereby petitioner has been declared as a proclaimed person.

On 23.09.2022, notice of motion was issued and the following contentions of the petitioner were recorded:-

“CRM-35645-2022 :

This is an application under Section 482 Cr.P.C. for preponement of date of hearing in the main case from 15.11.2022 to an early date of hearing.

Notice of the application.

Ms. Gaganpreet Kaur, AAG, Haryana appears and accepts notice on behalf of the respondent no.1-State.

For the reasons mentioned in the application, the same is allowed and date of hearing in the main case is preponed to today itself.

Main Case :

This petition under Section 482 Cr.P.C. has been filed by the petitioner for quashing FIR No.180 dated 11.02.2019, under Section

174-A IPC, 1860, Police Station Jagadhri City, District Yamuna Nagar (Annexure P-3) along with all consequential proceedings arising therefrom since the complainant has already withdrawn the complaint No.NIA 1810 of 2017 titled Ishu Garg vs. Javed Hassan under Section 138 of the Negotiable Instruments Act, 1881 on 13.08.2022 (Annexure P-4) on account of having been paid the entire cheque amount by the petitioner and also for quashing the order dated 09.01.2019 (Annexure P-2) passed by learned Judicial Magistrate Ist Class, Jagadhri at Yamuna Nagar whereby the petitioner has been declared as proclaimed person wrongly and illegally and without conforming the procedure prescribed under Section 82 Cr.P.C.

Notice of motion.

Ms. Gaganpreet Kaur, AAG, Haryana appears and accepts notice on behalf of the respondent no.1-State.

Let notice be served upon respondent no.2, returnable on 21.10.2022.

To be heard along with CRM-M-42566-2022.”

Learned counsel for the petitioner submits that the petitioner is a permanent resident of Jagadhri and he was declared as proclaimed person and for that reason, proceedings under Section 174-A IPC were initiated and FIR No.180 dated 11.02.2019 was registered. He further submits that petitioner was never served in the proceedings under section 138 N.I. Act and the procedure contemplated under section 82 Cr.P.C. has not been complied with before declaring the petitioner as proclaimed person.

He further submits that the main dispute which was under Section 138 of the Negotiable Instruments Act, out of which, proceedings under Section 174-A of IPC have emerged, had already been concluded vide order dated 13/08/2022 passed by the Ld. JMIC Jagadhri 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 proceedings under Section 174-A of IPC 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, is the judgment passed in 'Lakhwinder Singh versus State of Punjab' CRM-M-37155-2021 decided on 16.11.2021.

Learned State counsel has not disputed the fact that the matter has been compromised between the parties and main proceedings under Section 138 of the Negotiable Instruments Act, have already been culminated.

I have heard learned counsel for the parties and perused the records.

A perusal of order dated 13/08/2022 passed by the JMIC, Jagadhri makes it clear that the matter has been settled between the parties. Consequently, no fruitful purpose would be served in continuing the proceedings under Section 174-A of IPC.

Keeping in view the above said facts and circumstances as well as the settled law referred to above, the present petition is allowed and FIR No. 180 dated 11/02/2019 under Section 174-A of IPC registered at Police Station Jagadhri City, District Yamuna Nagar (Annexure P-3) and all subsequent proceedings arising there from, are hereby quashed and also the order dated 09/01/2019 passed by Ld. JMIC, Jagadhri at Yamuna Nagar whereby petitioner has been declared as a proclaimed person is also set aside.

21.10.2022

ps-I

(NAMIT KUMAR)
JUDGE

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