

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

228

CRM-M-50825-2022

Date of Decision: 24.11.2022

Manjinder Singh

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.K.P.S. Virk, Advocate
for the petitioner.

Ms. Dimple Jain, AAG, Haryana.

Mr. Jatin Kundu, Advocate for
Mr. J.S. Kang, Advocate
for respondent No.2

JAGMOHAN BANSAL, J. (Oral)

The instant petition has been filed under Section 482 Cr.P.C., seeking quashing of order dated 22.03.22022 (Annexure P-10) passed by learned SDJM, Safidon, District Jind whereby the petitioner has been declared proclaimed person in Criminal Complaint No. NACT/142/2020 dated 16.03.2020 under Section 138 of the Negotiable Instrument Act, titled as “Gurvinder Singh vs. Manjinder Singh” as well as FIR No. 211 dated 26.09.2022, registered under Section 174-A IPC, at Police Station City Safidon, District Jind (Annexure P-11) and all the consequent proceedings arising therefrom.

The brief facts emerging from the record and necessary for the adjudication of the present petition are that respondent No.2-Gurvinder Singh and petitioner are distant relatives. Respondent No.2 advanced a sum to the petitioner as a friendly loan. The petitioner in discharge of his legal

liability issued cheque which was returned with remarks “Funds Insufficient”. Respondent No.2 took its legal course as provided under Section 138 of Negotiable Instruments Act (for short, 'NI Act'). Subsequently, parties entered into a compromise and as per compromise, the petitioner agreed to return the advance in instalments and respondent No.2 had to withdraw the complaint, however, due to communication gap the complaint was not withdrawn and the petitioner did not appear before the trial Court under the impression that the complaint has been withdrawn by respondent No.2.

The petitioner while trial under Section 138 of NI Act was pending before SDJM, Safidon, District Jind failed to appear on the date fixed which entailed proceedings under Section 82/83 Cr.P.C. Learned SDJM, Safidon, District Jind declared the petitioner proclaimed offender and directed the SHO, Police Station, City Safidon, District Jind to register the FIR against him.

In compliance of orders of SDJM, Safidon, District Jind an FIR No. 211 dated 26.09.2022 came to be registered under Section 174-A of IPC. Thereafter, respondent No.2 filed an application seeking withdrawal of his complaint and learned trial Court vide order dated 20.10.2022 (Annexure P-12) ordered to dismiss the complaint as withdrawn.

Learned counsel for the petitioner would contend that respondent No.2 has already received payment of cheque in dispute and complaint under Section 138 of NI Act stands withdrawn, therefore, continuance of proceedings under Section 174A of IPC amounts to abuse of process of law as proceedings under Section 174A of IPC are consequential in nature.

Learned State counsel on being confronted above-stated facts would submit that the main matter i.e. dishonour of cheque has already been settled between the parties, however, proceedings under Section 174A were initiated on account of non-appearance of petitioners before learned trial Court.

Learned State counsel does not seriously dispute the prayer of the petitioners especially in view of the fact that the main matter has already been settled between the parties and State is not an aggrieved party.

I have heard arguments of both sides and perused the record.

It is undisputed fact that main dispute between petitioners and respondent No.2 stands settled. The dispute between the parties was confined to dishonour of cheque and respondent No.2 has already received full and final payment. The proceedings under Section 174A were initiated on account of declaration of petitioner as proclaimed offender. The petitioner had settled the matter. There seems to be no reason to continue with proceedings under Section 174A especially when petitioner have already appeared before the learned trial Court and settled the main dispute.

In view of the above-stated facts and circumstances, this Court is of the considered opinion that the present petition deserves to be allowed and accordingly allowed. FIR No. 211 dated 26.09.2022, registered under Section 174-A IPC, at Police Station City Safidon, District Jind (Anneuxre P-11) and all other consequential proceedings arising therefrom are quashed qua the petitioner.

24.11.2022
anju

(JAGMOHAN BANSAL)
JUDGE

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