

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-55172-2022

Date of Decision : November 29, 2022

Davinder SinghPetitioner

Vs.

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Ashish Aggarwal, Advocate
for the petitioner.

Mr. Navneet Singh, DAG, Punjab.

ARVIND SINGH SANGWAN, J.

Prayer in the petition is for quashing of case bearing FIR No.255 dated 27.8.2019 under Section No.174-A of IPC, registered at Police Station Sadar Tarn Taran, District Tarn Taran.

Counsel for the petitioner submits that initially the complaint was filed under Section 138 of the Negotiable Instrument Act by the Tarn Taran Central Co-Operative Bank through its authorised representative Jaswinder Singh. In those proceedings the petitioner was summoned, however, the service could not be effected and vide order dated 26.09.2018, the trial Court issued proclamation under Section 82(1) Cr.P.C. Counsel for the petitioner has submitted that, later on, on 16.10.2018 and 22.11.2018, it was noticed that the proclamation has not been received back and, thereafter, on 25.1.2019, the petitioner was declared a proclaimed offender in terms of Section 82(1) Cr.P.C. and direction was issued to register the impugned FIR.

Counsel for the petitioner submits that on coming to know about the pendency of the complaint, the petitioner appeared in those

proceedings. Similarly, in the present FIR, the petitioner was granted the anticipatory bail on 1.10.2019 as he appeared before the trial Court.

Thereafter, the petitioner has paid the remaining entire amount and on 8.3.2021, the Presiding Officer, Pre-Lok Adalat passed the following orders :-

“Learned counsel for the complainant has suffered a statement that the matter has been settled and he do not wish to continue the present complaint.

File be put up before the National Lok Adalat to be held on 10.4.2021 for final disposal of the case.”

Counsel for the petitioner submits that on 10.4.2021, the complaint was dismissed as withdrawn.

Counsel for the petitioner submits that since the petitioner was declared a proclaimed offender only on account of non-appearance in a complaint under Section 138 of the Negotiable Instrument Act as he was never served by following a proper procedure and after coming to know about the pendency of complaint, the petitioner immediately appeared and settled the dispute. Counsel for the petitioner further submits that in view of the facts and circumstances, the prosecution of the petitioner would be misuse of the process of law as the FIR was registered only on the pretext that the petitioner has failed to appear in the proceedings under Section 138 of the N.I. Act, which already stands withdrawn.

Counsel for the petitioner has relied upon the judgment in case titled as **“Lakhwinder Singh Vs. State of Punjab,** CRM-M-37155-2021 decided on 16.11.2021, wherein this Court has

quashed the FIR noticing the fact that the accused has been acquitted in proceedings Section 138 of the N.I. and, therefore, the prosecution of the petitioner in FIR under Section 174-A could be abuse of process of law as the same was registered only on account of non-appearance in the complaint case where the petitioner already stands acquitted.

Learned State counsel could not disputed that the complaint under Section 138 of the N.I. Act filed by the complainant-Bank stood withdrawn before the National Lok Adalat in view of the settlement arrived at between the parties.

Therefore, finding that the prosecution of the petitioner is nothing but the misuse of process of law, the impugned FIR is, hereby, quashed.

November 29, 2022
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(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned : YES / NO
Whether reportable : YES / NO