

**130 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-60316-2022

Date of Decision:22.12.2022

SANTOKH SINGH

..... Petitioner

Versus

STATE OF PUNJAB

..... Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Ishnoor Singh, Advocate
for the petitioner.

Mr. Amish Sharma, AAG, Punjab.

JAGMOHAN BANSAL, J. (Oral)

The instant petition has been filed under Section 482 Cr.P.C., seeking quashing FIR No. 0106 dated 08.07.2019, registered under Section 174-A IPC, at Police Station Fatehgarh Sahib, District Fatehgarh Sahib (Annexure P-3) 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 a complaint titled as 'Shubh Mohan Enterprises Vs. Santokh Singh', bearing No.735 of 2018 dated 07.09.2018 came to be filed against petitioner under Section 138 of Negotiable Instrument Act, 1881.

Learned counsel for the petitioner submits that the petitioner noted wrong date which resulted into his non-appearance before the Court below, thus, while the trial under Section 138 of Negotiable Instrument Act, 1881 was pending before the learned JMIC, Fatehgarh Sahib, the petitioner failed to appear on the date fixed which entailed proceedings under Section 82/83 Cr.P.C. Learned JMIC, Fatehgarh Sahib declared the petitioner proclaimed offender and directed the SHO, Police Station Fatehgarh Sahib to register FIR against him. In compliance of orders of JMIC, Fatehgarh

Sahib, an FIR No. 0106 dated 08.07.2019 came to be registered under Section 174-A of IPC.

Learned counsel for the petitioner further submits that petitioner entered into a compromise with the complainant and as per compromise, the petitioner agreed to pay the cheque amount in question and complainant had to withdraw the complaint.

The petitioner applied for concession of anticipatory bail and was released on anticipatory bail vide order dated 19.10.2020 in present FIR. Thereafter, complainant suffered a statement on the same date i.e. 19.10.2020 before learned ASJ, Fatehgarh Sahib undertaking to withdraw the complaint from the Court of Illaqua/Lower Court. Order dated 19.10.2020 passed by ASJ, Fatehgarh Sahib reads under:

“Stated that the matter involved in the complaint has been settled and compromised between me and accused Santokh Singh for a lumsup amount of Rs.2,82,000/-. Today I have received the entire settled amount of Rs.2,82,000/- from the accused. Nothing is due with regard t the cheque in question towards accused Santok Singh. I undertake to withdraw the complaint from the court of Ilaqa Magistrate/lower court by way of moving the application to summon the file from record room.”

Learned counsel for the petitioner would contend that complainant has already received payment of cheque in dispute, 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 complainant stands settled. The dispute between the parties was confined to dishonour of cheque and complainant 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 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. 0106 dated 08.07.2019, registered under Section 174-A IPC, at Police Station Fatehgarh Sahib, District Fatehgarh Sahib (Annexure P-3) and all other consequential proceedings arising therefrom are quashed *qua* the petitioner.

The private respondent is at liberty to move an appropriate application, if any averment is found incorrect.

(JAGMOHAN BANSAL)
JUDGE

22.12.2022
Ali

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