

CRM-M-1969 of 2023

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

CRM-M-1969 of 2023  
Reserved on: 24.01.2023  
Date of Pronouncement: 31.01.2023

Daljit Singh @ Sonu through his Special Power of Attorney  
.....Petitioner

Versus

State of Punjab  
.....Respondent

**CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR**

Argued by: -Mr. Ram Kumar Chauhan, Advocate, for the petitioner.  
Mr. Anup Singh, AAG, Punjab.

**NAMIT KUMAR, J.**

This petition has been filed by the petitioner under Section 482 Cr.P.C. for quashing of order dated 26.07.2022 (Annexure P-3) passed by learned Judicial Magistrate Ist Class, Hoshiarpur, whereby petitioner has been declared as proclaimed person in case FIR No.12 dated 22.01.2019 under Sections 341, 323, 506, 34 IPC (Sections 325, 201 IPC added later on), registered at Police Station Mehtiana, District Hoshiarpur.

Learned counsel for the petitioner contended that impugned order dated 26.07.2022 passed by the trial Court is totally illegal as no proper procedure under Section 82 Cr.P.C. has been adopted by the trial Court as the petitioner was already living abroad and his service was not effected. He further submits that the parties have compromised the matter and as per direction of this Court,

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statements with regard to validity and genuineness of the compromise have already been recorded before the trial Court, wherein complainant has no objection if the FIR is quashed against the petitioner.

Notice of motion.

Mr. Anup Singh, AAG, Punjab, accepts notice on behalf of the respondent-State and submits that the parties have entered into the compromise.

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

Perusal of file shows that petitioner and co-accused were issued notice by the trial Court for 27.09.2021. On 27.09.2021 as the notice was received back unserved, fresh notice was issued for 23.11.2021. In order dated 23.11.2021 it was recorded by the trial Court that as the accused were intentionally and deliberately avoiding the service of summons through ordinary process and they were summoned through bailable warrants for 04.01.2022. On 04.01.2022 again, non-bailable warrants were issued against the petitioner and case was adjourned to 03.03.2022. On 03.03.2022, Presiding Officer was on leave and the case was adjourned to 13.05.2022. On 13.05.2022 proclamation was issued against the petitioner for 10.06.2022. On 10.06.2022 statement of serving constable was recorded and appearance of the accused was awaited and case was adjourned to 26.07.2022. On 26.07.2022, petitioner was declared proclaimed person.

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It is the contention of the learned counsel for the petitioner service of notice was not effected upon the petitioner as he was residing abroad and the trial Court in order dated 23.11.2021 wrongly mentioned that petitioner was intentionally and deliberately avoiding the service of summons.

This Court in 'Aditya Goyal vs. State of Haryana' CRM-M-11269-2019 decided on 07.05.2019 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

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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.

Consequently, the present petition is allowed and the impugned order dated 26.07.2022 (P-3) whereby the petitioner has been declared as proclaimed person and all subsequent proceedings arising therefrom, are hereby quashed on the basis of compromise, subject to payment of costs of Rs.25,000/- to be deposited with the Punjab and Haryana High Court Lawyers’ Welfare Fund within a period of two weeks from the date of passing of this order.

31.01.2023  
R.S.

(NAMIT KUMAR)  
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether Reportable

:

Yes/No