

258 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-4133-2022

Date of decision: 17.01.2023

Subhash Chand

.....Petitioner

versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Rajender Kumar, Advocate
for the petitioner.

Mr. Vikrant Pamboo, DAG, Haryana.

Mr. Deepak Jain, Advocate
for respondent No.2.

NAMIT KUMAR, J. (ORAL)

This petition has been filed under Section 482 Cr.P.C. seeking setting aside of order dated 14.11.2019 (Annexure P-9) passed in complaint bearing NACT No.2620 of 2018 passed by the learned JMIC, Karnal, whereby, the petitioner has been declared proclaimed person without following the mandatory provision under Section 82 Cr.P.C. as well as subsequent proceedings arising out of the said order and quashing of FIR No.778 dated 07.12.2021 under Section 174-A of IPC registered at Police Station Karnal Civil Lines, Karnal (Annexure P-10).

On 03.02.2022, notice of motion was issued and the following contentions of the petitioner were recorded:-

“Learned counsel appearing on behalf of the petitioner inter alia contends that the proceedings had been initiated in the complaint bearing No. NACT 2620 of 2018 initiated by Axis Bank Limited-respondent No.2, under Section 138 of the Negotiable Instruments Act. The petitioner was declared as Proclaimed Offender in the said case vide order dated 14.11.2019. It is further stated that the petitioner has already entered into settlement with respondent No.2-Axis Bank Limited vide agreement dated 12.01.2022 (Annexure P-11). The FIR No. 778 dated 07.12.2021 has been registered under Section 174-A IPC at Police Station Karnal, Civil Lines, Karnal on the basis of order dated 14.11.2019 passed in the complaint. As the amount of cheque already stands settled with the respondent No.2-Axis Bank Limited, hence, the order declaring the petitioner as Proclaimed Person and the subsequent registration of the FIR should be quashed being a waste of judicial time and abuse of the process of law.

Notice of motion, returnable for 15.03.2022.”

Learned counsel for the petitioner submits that the service could not be effected upon him and for that reason, proceedings under Section 174-A IPC were initiated and FIR No.778 dated 07.12.2021 was registered.

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 been emerged, had already been concluded vide agreement dated 12.01.2022 and the main complaint had been dismissed as withdrawn vide order dated 03.01.2023 passed by the learned JMFC, Karnal, 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, another judgment passed in 'Lakhwinder Singh versus State of Punjab' CRM-M-37155-2021 decided on 16.11.2021 also supports the present case.

Learned State counsel has not disputed the fact that the matter has been compromised.

A perusal of order dated 03.01.2023 passed by the learned JMFC, Karnal, makes it clear that the matter has been settled between the parties and complaint has been dismissed as withdrawn. Consequently, no fruitful purpose would be served in continuing the proceedings under Section 174-A of IPC.

Consequently, the present petition is allowed and the impugned FIR No.778 dated 07.12.2021 under Section 174-A of IPC registered at Police Station Karnal Civil Lines, Karnal (Annexure P-10) and all subsequent proceedings arising therefrom, are hereby quashed. The order dated 14.11.2019 (Annexure P-9) is also ordered to be set aside.

17.01.2023
Neha

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No