

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-M-5876-2022

Date of Decision: 19.01.2023

Rakesh Kumar

.... Petitioner

Versus

State of Haryana and another

.... Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. Shantanu Bansal, Advocate for the petitioner.

Mr. G.S. Dhillon, AAG, Haryana.

Mr. Shaurya Khanna, Advocate for respondent No. 2.

ASHOK KUMAR VERMA, J. (ORAL)

Petitioner has filed the present petition under Section 482 Cr.P.C. for quashing FIR No. 242 dated 17.02.2020 (Annexure P-1) registered under Section 174-A IPC at Police Station Baldev Nagar, District Ambala and all subsequent proceedings arising therefrom.

The aforesaid FIR has cropped up from the proceedings initiated by respondent No. 2-complainant by filing a complaint bearing No. COMA/477/2017 under Section 138 of the Negotiable Instruments Act, 1881 (for short-'the Act'), wherein the petitioner was declared as proclaimed offender vide order dated 08.05.2018 (Annexure P-2). After registration of the aforesaid FIR, the petitioner had approached the trial Court for grant of anticipatory bail and vide order dated 26.02.2020

(Annexure P-3), the petitioner was granted the concession of anticipatory bail.

Learned counsel for the petitioner, *inter alia*, contends that though in criminal complaint titled as 'Rajinder Kumar Vs. Rakesh', filed under Section 138 of the Act, the petitioner was declared as proclaimed offender, but later on he had approached the trial Court and was granted anticipatory bail by the trial Court vide order dated 26.02.2020 (Annexure P-3). Ultimately, vide order dated 25.02.2020 (Annexure P-4), the above said complaint was dismissed as withdrawn. He further submits that once the main complaint out of which proceedings under Section 174-A IPC have arisen, had already been dismissed as withdrawn, then continuation of proceedings in the impugned FIR No. 242 dated 17.02.2020 (Annexure P-1) registered under Section 174-A IPC, would be nothing but an abuse of the process of Court.

Counsel for respondent No. 2 also submits that he has 'no objection' in case, the impugned FIR is quashed.

I have heard learned counsel for the parties.

No doubt, the impugned FIR was registered on the basis of non-appearance of the petitioner before the trial Court due to which he was declared as proclaimed offender in a complaint filed by the complainant-respondent No. 2 under Section 138 of the Act. However, the said complaint had already attained finality as the parties entered into a compromise vide compromise deed dated 23.07.2021 (Annexure P-5) and the main complaint was dismissed as withdrawn vide order dated 25.02.2020 (Annexure P-4).

Since, the main complaint filed under Section 138 of the Act stands withdrawn the matter being compromised between the parties, therefore, continuation of the proceedings under Section 174A IPC would be nothing but an abuse of the process of law.

In view of the above, I find merit in the present petition and accordingly, the present petition is allowed and the impugned FIR No. 242 dated 17.02.2020 (Annexure P-1) registered under Section 174-A IPC at Police Station Baldev Nagar, District Ambala and all subsequent proceedings arising therefrom are hereby quashed qua the petitioner.

Disposed of, accordingly.

January 19, 2023
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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned **Yes/No**

Whether Reportable **Yes/No**