

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

117

CRM-M-9752-2023

Date of decision: 23.02.2023

Sikander Kumar

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. D.S. Virk, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

The instant petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.110 dated 31.01.2023 (Annexure P-1) under Sections 174-A of the IPC registered at Police Station Civil Lines, Sirsa, District Sirsa and all consequential proceedings arising therefrom and for quashing of order dated 24.08.2022 (Annexure P-3) passed by learned Judicial Magistrate 1st Class, Sirsa in complaint CIS No.NACT-520-2021 titled as 'Vinod Vs. Sikander Kumar' whereby the petitioner has been declared a proclaimed person in view of the complaint in question having been dismissed as withdrawn vide order dated 23.01.2023.

Learned counsel for the petitioner has primarily prayed for setting aside of the impugned order on the ground that he was never served either with the summons or warrants issued by the Trial Court in the complaint instituted under Section 138 of Negotiable Instruments Act (hereinafter referred to as 'the Act'). Learned counsel, therefore, submits that absence of the petitioner was thus, not intentional as he was unaware about the pendency of the complaint instituted against

him under Section 138 of the Act and still further, even the proclamation was never served upon him as per the provisions of Section 82 Cr.P.C. Learned counsel has vehemently contended that as soon as the petitioner learnt about the pendency of the complaint in question, he immediately made the payment of the cheque amount to the complainant and compromised the matter with him. Resultantly, the complaint instituted under Section 138 of the Act by the complainant, was withdrawn by him on 23.01.2023. In support, learned counsel has drawn the attention of this Court to order of JMIC, Sirsa (Annexure P-4) dated 23.01.2023, wherein the factum of the withdrawal of the complaint stands reflected. A prayer, therefore, has been made that in the aforementioned facts and circumstances, no purpose would be served by prosecuting the petitioner under Section 174-A IPC, more so, when he was not involved in any other criminal case much less under Section 138 of the Act nor had he been declared a proclaimed offender prior thereto in any other case.

Notice of motion.

On asking of the Court, Mr. Rahul Mohan, DAG, Haryana accepts notice of the petition.

Learned State counsel has opposed the prayer made by the counsel opposite and contended that it was evident that the petitioner had intentionally not appeared during the proceedings before the Court below and hence, the prayer of the petitioner deserved to be declined.

Heard learned counsel for the parties and perused the relevant material on record.

The petitioner was declared a proclaimed person vide

impugned order in a complaint case under Section 138 of the Act. Admittedly, the said complaint was withdrawn after the parties arrived at a compromise. Furthermore, the petitioner is neither involved in any other criminal case nor was he declared a proclaimed offender any time prior thereto. Hence, the continuation of criminal proceedings under Section 174-A IPC would serve no useful purpose.

Accordingly, the present petition is allowed and the impugned order dated 24.08.2022 declaring the petitioner as proclaimed person as well as FIR registered under Section 174-A IPC and all consequential proceedings arising therefrom are set aside.

23.02.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No