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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM M-10256-2023****Date of Decision: February 27, 2023**

Vivek Pathan

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

-.-

Present:- Mr. Surinder Singh, Advocate for the petitioner.
Mr. Tarun Aggarwal, Sr. DAG, Punjab.

-.-

HARKESH MANUJA.J. (ORAL)

By way of present petition under Section 482 Cr.P.C., a prayer has been made for quashing of FIR No.87, dated 22.10.2019, under Section 174-A IPC at Police Station, Naya Gaon, District Mohali as an offshoot of complaint filed under Sections 138/142 of the Negotiable Instruments Act, 1881 (hereinafter referred to as "the Act"), whereby the petitioner was declared as a proclaimed person.

Facts of the case are that on account of dishonour of cheque bearing No.797727, dated 27.03.2017, amounting to Rs.2,80,000/-, a complaint under Section 138 of the Act, came to be filed at the instance of complainant against the petitioner, wherein, he was summoned vide order dated 07.10.2017 passed by the Court of learned JMIC, SAS Nagar, Mohali. The petitioner was granted the concession of bail in the aforementioned complaint, however, on account of his non-appearance on 15.02.2018, he was declared as proclaimed person, vide order dated 20.07.2019 followed by registration of FIR No.87 dated 22.10.2019, under Section 174-A IPC at Police Station Naya Gaon, District Mohali.

While challenging the aforesaid FIR No.87 dated 22.10.2019, learned counsel for the petitioner submits that after having been declared as proclaimed person, he submitted himself to the jurisdiction of the trial court in the proceedings arising out of complaint under Section 138 of the Act and was granted the concession of regular bail on 24.10.2019 and thereafter, a settlement came to be arrived at between the parties as the petitioner discharged his liability by paying the amount of cheque in favour of complainant and in pursuance thereof, the complaint file was ordered to be consigned to the record room, vide order dated 13.08.2022 passed by learned Presiding Officer, National Lok Adalat, SAS Nagar, Mohali. Learned counsel further submits that even in the proceedings arising out of FIR No.87 dated 22.10.2019, the petitioner has been granted the concession of regular bail and thus, submits that the proceedings under Section 138 of the Act having settled between the parties against discharge of liability, the petitioner already granted bail in the consequential FIR, no useful purpose is going to be served by continuing with the proceedings arising therefrom. In support, learned counsel for the petitioner relies upon judgment of this Court passed in CRM-M-22685-2022, titled as ***“Gurlal Singh and another vs. State of Punjab and another”***.

Notice of motion.

Mr. Tarun Aggarwal, Sr. DAG, Punjab, who is present in Court, accepts notice on behalf of the respondent State and opposes the prayer made in the petition while submitting that the registration of FIR under Section 174-A is primarily on account of non-appearance of petitioner before the trial Court in the proceedings arising out of complaint under Section 138 of the Act and has to be dealt with independently and order of

settlement of complaint under Section 138 of the Act cannot be taken to be a ground for the purpose of seeking quashing of FIR under Section 174-A IPC.

I have heard learned counsel for the parties and gone through the paper-book. I find substance in the submissions made on behalf of the petitioner.

Once the parties have already entered into a settlement and petitioner has already discharged his liability having paid the entire cheque amount to the complainant and complaint under Section 138 of the Act having been consigned to the record-room, the petitioner having even submitted himself to the jurisdiction of the trial court post his declaration as that of a proclaimed person and even having got the concession of regular bail in the FIR in question, no useful purpose is going to be served by carrying on with the proceedings arising out of the present FIR No.87, dated 22.10.2019. Even otherwise, the case of the petitioner is fully covered with the judgment passed by this Court in **Gurlal Singh's** case (supra). Furthermore, the primary purpose of proceedings under Section 82 of Cr.P.C., against the petitioner was to secure his presence before the trial court, in proceedings under Section 138 of the Act, which stood achieved with his appearance.

Accordingly, petition is allowed. FIR No.87 dated 22.10.2019, under Section 174-A, registered against the petitioner at Police Station Naya Gaon, District Mohali and all other subsequent proceedings arising therefrom are ordered to be quashed, subject to payment of costs of Rs.10,000/- to be deposited with the Punjab and Haryana High Court Bar Association Lawyer's Welfare Fund having Account No.41564846387 with

State Bank of India, High Court Branch, Chandigarh, within a period of two weeks from today.

February 27, 2023
sanjay

(HARKESH MANUJA)
JUDGE

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