

CRM-M-13771-2018

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-13771-2018

Date of decision: 22.08.2023

Chaudhary Vijender Singh

...Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Aditya Sanghi, Advocate,
for the petitioner.

Ms. Ankita Ahuja, AAG, Haryana.

Mr. Jasdev Singh Thind, Advocate,
for respondent No.3.

HARNARESH SINGH GILL, J.

1. The present petition has been filed for quashing of FIR No.89 dated 06.02.2018, under Section 174-A IPC, registered at Police Station Gurgaon Sadar, District Gurugram, alongwith the consequential proceedings arising therefrom.

2. Status report dated 14.07.2022 by way of affidavit of the Assistant Commissioner of Police, Sadar, Gurugram, filed in the Registry, is taken on record.

3. Learned counsel for the petitioner submits that in a complaint under Sections 138 and 142 of the Negotiable Instruments, 1881 (hereinafter referred to as 'N.I.Act') read with Section 420 IPC, filed by

CRM-M-13771-2018

respondent No.3, the petitioner was convicted by the trial Court and had been directed to pay compensation to respondent No.3 equal to the cheque amount, vide judgment dated 13.06.2012; that being dissatisfied, the petitioner preferred an appeal before the Appellate Court; that during pendency of the appeal, a compromise was effected between the parties and that vide order dated 21.09.2013, the appeal stood allowed and the order of the trial Court convicting the petitioner, had been set aside. He further submits that the Additional Sessions Judge, Gurugram, has also drawn a conclusion that the amount had already been paid by the petitioner to respondent No.3.

4. Learned counsel for the petitioner further submits that respondent No.3 moved an application dated 28.09.2013 before learned Addl. Sessions Judge, Gurgaon, seeking legal action against the petitioner under Sections 188, 464 and 403 IPC on the ground that the demand draft given by the petitioner at the time of compromise, had not been cleared. It is further submitted that there was no occasion for the petitioner to submit the alleged demand draft as he had already paid the entire amount to respondent No.3. It is further submitted that vide order dated 19.07.2014 passed by learned Addl. Sessions Judge, Gurgaon, the petitioner had been declared a proclaimed person.

5. Learned counsel for the petitioner further submits that the petitioner challenged the aforesaid order dated 19.07.2014 declaring him a proclaimed person, before this Court by way of CRM-M-28577-2014; that after having deposited the draft/cheque amount before the trial Court, the petitioner was ordered to be released on interim bail, vide order dated

CRM-M-13771-2018

21.08.2014 passed by a Coordinate Bench in the said petition. It is further submitted that on the subsequent dates, the petitioner could not appear before the Court in the said petition, following which the same was dismissed in default on 30.01.2017, and that the petitioner moved CRM-21327-2017 for restoration of the said petition, but in the meantime, the impugned FIR was registered.

6. Learned counsel for the petitioner further submits that the petitioner has already paid the due amount to respondent No.3 two times i.e. firstly before the learned Addl. Sessions Judge, Gurgaon and secondly during pendency of CRM-M-28577-2014, as would decipher from the order dated 21.09.2013 (Annexure P-1) and 21.08.2014 (Annexure P-5), respectively.

7. On the other hand, learned State counsel submits that after registration of the FIR, efforts were made to trace the petitioner at his address, but he could not be traced; that ultimately, an untraced report was filed in the Court on 26.08.2021, which was pending before the concerned Court for 01.08.2022, for issuance of notice to respondent No.3-complainant. However, she submits that latest position qua the same is not available with her.

8. Learned counsel for respondent No.3 submits that the petitioner committed a fraud with the complainant; that though the petitioner stood acquitted by the Appellate Court, yet the fact remains that no amount, at any stage, has ever been paid by the petitioner to respondent No.3. It is further submitted that when the demand draft issued by the petitioner, was not cleared, respondent No.3 had no other option except to

CRM-M-13771-2018

move an application before the Appellate Court to take legal action against the petitioner under Sections 188, 464 and 403 IPC. It is further submitted that the petitioner has rightly been declared a proclaimed person and that there is no ground to quash the impugned FIR.

9. I have heard the learned counsel for the parties.

10. A perusal of the record would show that in a criminal complaint filed under Section 138 read with Section 142 N.I.Act and Section 420 IPC, the petitioner was convicted and sentenced for a period of one year and directed to pay compensation equal to the cheque amount. However during pendency of appeal preferred by the petitioner, a compromise was effected between the parties. Vide order dated 21.09.2013 passed by learned Addl. Sessions Judge, Gurgaon, the aforesaid judgment of conviction was set aside, as the offence had been compounded. However, learned counsel for the petitioner has not placed on record any evidence to show that amount has ever been paid to respondent No.3 at any stage. Further as stated by learned counsel for respondent No.3, the demand draft issued by the petitioner was not cleared and thus, respondent No.3 had been left with no option except to move an application dated 28.09.2013 to take legal action against the petitioner herein under Sections 188, 464 and 403 IPC. Thereafter, the petitioner was declared a proclaimed person on 19.07.2014. The petitioner approached this Court by way of CRM-M-28557-2014 challenging the order dated 19.07.2014. However, the said petition was dismissed in default on 30.01.2017. There is nothing on record to show that the petitioner has ever paid the amount, as settled, to respondent No.3 at any stage.

CRM-M-13771-2018

11. Once, the petitioner did not honour the settlement on the basis of which the compounding of the offence was allowed, declaration of the petitioner as proclaimed person and registration of an FIR for the said offence, which too arise out of an application filed in the same proceedings, cannot be said to be unjustified.
12. In view of the above, this court does not find any merit in the present petition.
13. Dismissed.

22.08.2023
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No