

CRM-M-22031 of 2018

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

CRM-M-22031 of 2018
Reserved on: 31.01.2023
Pronounced on: 10.02.2023

Gurmail Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by: -Ms. Satpreet Grewal Kapila, Advocate, for the petitioner.
Mr. Jashanpreet Singh, DAG, Punjab.
Mr. Raman Kumar, Advocate, for
Ms. Suminderdeep Kaur, Advocate, for respondent No.2.

NAMIT KUMAR, J.

This petition has been filed by the petitioner under Section 482 Cr.P.C. for quashing of order dated 29.02.1996 (Annexure P-3) passed by the Court of learned SDJM, Dasuya, whereby petitioner has been declared as proclaimed offender in cross-case recorded in FIR No.18 dated 24.07.1994 under Sections 323, 324, 325, 34 IPC, registered at Police Station Hajipur, District Hoshiarpur, on the basis of compromise (Annexure P-5).

Learned counsel for the petitioner contended that the petitioner is innocent and was kept in column No.2 of report under Section 173 Cr.P.C. He was summoned as an additional accused under Section 319 Cr.P.C. in present FIR but he could not appear before the

CRM-M-22031 of 2018

trial Court as he got a job in Dubai and settled there. She further submitted that provisions of Section 82 Cr.P.C. have not been complied with. As a result of which he was declared proclaimed offender vide order dated 29.02.1996. He further submits that the parties have compromised the matter and as per direction of this Court, statements with regard to validity and genuineness of the compromise have already been recorded before the trial Court, wherein complainant has no objection if the FIR is quashed against the petitioner.

Learned counsel for respondent No.2 submits that the parties have entered into the compromise.

I have heard learned counsel for the parties and perused the record.

Many a times, the accused can be prevented by sufficient reasons to put an appearance before the Court on a given date and, therefore, it necessarily cannot be construed as a deliberate and willful absence. The explanation offered for non appearance before the trial Court is justified and therefore, the same is accepted.

This Court in **'Aditya Goyal vs. State of Haryana'** CRM-M-11269-2019 decided on 07.05.2019 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

CRM-M-22031 of 2018

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.

Consequently, the present petition is allowed and the impugned order dated 29.02.1996 (P-3) whereby the petitioner has been declared as proclaimed offender and all subsequent proceedings arising therefrom, are hereby quashed on the basis of compromise, subject to payment of costs of Rs.25,000/- to be deposited with the Punjab and Haryana High Court Lawyers' Welfare Fund within a period of four weeks from the date of passing of this order.

CRM-M-22031 of 2018

It is made clear that if the cost is not deposited within the stipulated period, this petition shall be deemed to have been dismissed.

10.02.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether Reportable

:

Yes/No