

111

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

**CRM-M-18555-2022
Date of decision : 21.04.2023**

Savita

.....Petitioner

versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Kamal Chaudhary, Advocate
for the petitioner.

Mr. B.S. Virk, DAG, Haryana.

RAJESH BHARDWAJ, J. (Oral)

This petition has been filed by the petitioner praying for quashing of the order dated 14.02.2020 (Annexure P-2) passed in Complaint Case No.NACT/7267/2018 dated 07.06.2018 whereby he was declared Proclaimed Person by learned Judicial Magistrate Ist Class, Faridabad along with subsequent proceedings arising out of the same including FIR No.38 dated 27.02.2020, under Section 174-A of IPC, at Police Station Tigaon, District Faridabad.

Notice of the petition was issued to the respondents but despite service, respondent No.2 has not put in appearance.

Learned counsel for the petitioner has contended that the petitioner was prosecuted by the respondent in the complaint filed under Section 138 of the Negotiable Instruments Act. He further submits that vide order dated 14.02.2020 due to non-appearance of petitioner, she was declared as proclaimed person and a direction was issued to the SHO

concerned for registration of case under Section 174-A of IPC against the petitioner. Thereafter, the petitioner put in appearance and was admitted to bail. During pendency of the complaint, matter was compromised between both the parties and the petitioner paid the entire disputed amount to the complainant. He has further stated that the complainant suffered a statement before the trial Court that the matter has been compromised and he does not want to pursue the present complaint and resultantly, a complaint filed by respondent No.2 was withdrawn on 27.02.2023. He further submits that once the main complaint filed by respondent No.2 under Section 138 of the Negotiable Instruments Act has been withdrawn, prosecution of the petitioner in the impugned FIR registered under Section 174-A would be totally an abuse of the process of the Court.

Learned State counsel on the other hand contends that the petitioner was rightly declared as a proclaimed person, pursuant to which FIR No.38 dated 27.02.2020, under Section 174-A of IPC, at Police Station Tigaon, District Faridabad was registered against the petitioner and the petitioner is liable to be prosecuted.

I have heard counsel for the parties and perused the record. It is apparent that the present FIR was registered due to non-appearance of the petitioner and she was declared as a proclaimed person in the proceedings under the Negotiable Instruments Act. Thereafter, she was admitted to bail and she appeared before the trial Court thus, the default stood condoned. Ultimately, the matter was settled between the parties and the petitioner paid the entire amount to the complainant who withdrew his complaint on 27.02.2023. As the main case i.e. complaint

under Section 138 of the Negotiable Instruments Act already stands withdrawn, continuation of the proceedings under Section 174-A of IPC would not serve any purpose as the root cause of controversy i.e. complaint under Section 138 of the Negotiable Instruments Act already stood withdrawn. A coordinate Bench of this Court in a case titled as **“Ashok Madan vs. State of Haryana and another”** reported as **2020(4) RCR (Criminal) 87** has also held as under:-

“No doubt, the learned counsel for the respondent has vehemently argued that the offence under Section 174A I.P.C. is independent of the main case, therefore, merely because the main case has been dismissed for want of prosecution, the present petition cannot be allowed, however, keeping in view the fact that the present FIR was registered only on account of absence from the proceedings in the main case which had been subsequently regularised by the court while granting bail to the petitioner, the default stood condoned. In such circumstances, continuation of proceedings under Section 174A I.P.C. Shall be abuse of the process of court 7. Accordingly, the petition is allowed. FIR No.446 dated 21.08.2017, registered under Section 174A I.P.C. At Police Station Kotwali, District Faridabad, as well as consequential proceedings shall stand quashed.”

A similar view has been taken by this Court in **“Anil Kumar Versus Jitender Kumar and another, CRM-M-5878- 2022 decided on 06.04.2022”** and **“Varinder Kumar @ Virender Kumar Versus State of Haryana and another, CRM-M-42551-2021 decided on 19.04.2022”**

So, keeping in view the above-said facts and the law settled, it is clear that the FIR was registered on account of absence of the petitioner which was subsequently regularized on her appearance after

she was granted bail by the Court so the default stood condoned. Continuation of the proceedings under Section 174-A of IPC shall be abuse of the process of the Court. Consequently, present petition is allowed and the order dated 14.02.2020 (Annexure P-2) passed in Complaint Case No.NACT/7267/2018 dated 07.06.2018 whereby he was declared Proclaimed Person by learned Judicial Magistrate Ist Class, Faridabad along with subsequent proceedings arising out of the same including FIR No.38 dated 27.02.2020, under Section 174-A of IPC, at Police Station Tigaon, District Faridabad is quashed.

Petition stands allowed.

21.04.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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