

211

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-20907 of 2023
Date of Decision: 05.10.2023

RAMESH CHANDRA SHARMA

... Petitioner

Versus

STATE OF HARYANA AND ANOTHER

... Respondents

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Nayandeep Rana, Advocate
for the petitioner.

Mr.Surender Singh, AAG, Haryana.

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SANJIV BERRY, J. (ORAL)

The instant petition has been preferred by the petitioner under Section 482 of the Code of Criminal Procedure for seeking quashing of FIR in the following case (Annexure P-3) and all consequential proceedings resulting therefrom :-

FIR No.	Dated	Sections	Police Station
0005	02.01.2023	174-A IPC	Panipat City, District Panipat

2. In nutshell, the facts of the case are that petitioner is proprietor of M/s Jai Vaishno Medical shop and used to purchase medicines from M/s Laborate Pharmaceuticals Ltd., issued certain cheques to clear his financial

liability to M/s Laborate Pharmaceuticals Ltd. The said cheques were dishonored vide memo dated 29.09.2018 and 08.01.2018. Complainant filed complaint under Section 138 of Negotiable Instrument Act against the petitioner before the learned Judicial Magistrate First Class, Panipat. On 23.12.2022, petitioner was declared as proclaimed person and concerned Police Station was directed to initiate proceedings against the petitioner under Section 174-A (Annexure P-2) and FIR dated 02.01.2023 (Annexure P-3) was registered. On the statement of complainant, stating that the matter has been compromised and he wish to withdraw the complaint, vide order dated 24.02.2023 passed by learned Judicial Magistrate First Class, Panipat complaint case NACT No. 3428 of 2018 titled as M/s Laborate Pharmaceutical Vs. M/s Jain Vaishno Medical was dismissed as withdrawn (Annexure P-5).

3. I have heard the respective submission made by the learned counsels, representing the petitioner and the State.

4. It has been contended by learned counsel for the petitioner that the petitioner was never served through summons issued in the complaint case NACT No. 3428 of 2018, and resulting in him being declared as proclaimed person vide order dated 23.12.2022 (Annexure P-2) passed by Judicial Magistrate First Class, Panipat, to secure the presence of the petitioner. He submits that matter has been amicably settled between the parties and the complaint case NACT No. 3428 of 2018 has been dismissed as withdrawn on the statement made by the complainant, vide order 24.02.2023 (Annexure P-5) passed by learned Judicial Magistrate First Class, Panipat. He submits that since the original proceedings i.e. the

aforesaid complaint has already come to an end on the basis of compromise, therefore, present proceedings under Section 174-A IPC should also come to an end. He has referred to the judgments cited as *Harbans Singh vs. State of Haryana, and another, CRM-M-56596 of 2022, AIR Online 2022 (P and H) 1035; Aditya Goyal vs. State of Haryana, CRM-M-11269 of 2019: AIR Online 2019 (P and H) 2070; Lakhwinder Singh vs. State of Punjab, CRM-M- 37155-2021; CRM-M-16528 of 2023, Harnek Singh Vs. State of Haryana*, to argue that since the main complaint filed under Section 138 of the Negotiable Instrument Act has been withdrawn by the complainant on the basis of amicable settlement, therefore, the present proceedings arising out of the FIR (Annexure P-3) under Section 174-A IPC shall be quashed and consequential proceedings arising therefrom be also set aside.

5. The learned State counsel has admitted the factum of compromise and withdrawal of complaint under Section 138 of the Negotiable Instrument Act, against the petitioner vide order dated 24.02.2023 (Annexure P-5). However, he submits that as the petitioner had been declared as proclaimed person by the competent Court, so the present FIR was lawfully registered against the petitioner.

6. After considering the rival contentions and perusing the record, it is not disputed that a complaint (Annexure P-1) titled as “M/s Laborate Pharmaceutical Vs. M/s Jai Vaishno Medical” was filed under Section 138 of the Negotiable Instrument Act against the petitioner and the present petitioner was declared proclaimed person vide order dated 23.12.2022 (Annexure P-2) in the said complaint and on the basis thereof, the impugned FIR dated 02.01.2023 (Annexure P-3) was registered against him. It is not

disputed that the aforesaid complaint has since been withdrawn by the complainant vide order dated 24.02.2023 (Annexure P-5) on the basis of amicable settlement between the parties. It is the case of the petitioner that summons were not served to him and the subsequent proceedings resulting him to be declared as proclaimed person. It has been held in the judgments referred to above that when the main complaint in which the petitioner has been declared proclaimed person have been withdrawn on the basis of amicable settlement then continuation with the proceedings under Section 174-A IPC would be nothing but the abuse of the process of law.

7. Therefore, considering the facts and circumstances of the present case, without going into the controversy as to whether the petitioner was aware of the proceedings going against him under the Negotiable Instrument Act or not; and whether the learned Magistrate had declared him proclaimed person in the case, since the main complaint has already stated above stood compromised and the complaint having been withdrawn vide order dated 24.02.2023 (Annexure P-5), the registration of present FIR (Annexure P-3) being the outcome of the proceedings held in that complaint, would not serve any purpose by keeping the aforesaid FIR and the consequent proceedings alive.

8. Consequently, keeping in view the above said facts and circumstances, the present petition is allowed, impugned FIR No.0005 dated 02.01.2023 registered under Section 174-A IPC at Police Station City-Panipat City, District, Panipat (Annexure P-3) and all the subsequent proceedings arising therefrom, as well as the order dated 23.12.2022 (Annexure P-2) passed by the learned Judicial Magistrate First Class,

Panipat whereby the petitioner was declared as proclaimed person in Complaint case No. NACT No. 3428 of 2018 titled as M/s Laborate Pharmaceutical vs. M/s Jain Vaishno Medical is hereby set aside.

(SANJIV BERRY)
JUDGE

05.10.2023
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| i) | Whether speaking/reasoned? | Yes |
| ii) | Whether reportable? | Yes |