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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-4344 of 2017
Date of Decision: 06.09.2023

Anil Kumar

... Petitioner

Versus

State of Punjab and another

... Respondents

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

Present:- Mr. Vaibhav Narang, Advocate
for the petitioner.

Mr. Anmol Singh Sandhu, AAG, Punjab.

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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 in the following case (Annexure P-1) :-

FIR No.	Dated	Sections	Police Station
307	31.10.2015	174-A IPC	City-1 Abhor, District Fazilka

2. In nutshell, the facts of the case are that petitioner availed a loan from Canara Bank amounting to ₹68,000/- for purchase of motorcycle. He had been paying installment regularly, but due to some compulsions he could not pay some installments and on default Bank instituted complaint under Section 138 of Negotiable Instrument Act against Anil Kumar (present petitioner) before the learned Sub Divisional Judicial Magistrate, Abohar. Petitioner was not aware of the proceedings under Section 138 of

NI Act and was declared proclaimed offender on 31.10.2015 and subsequently on 31.10.2015 Reader of the court of Addl. Civil Judge (Sr. Division)-cum Sub Divisional Judicial Magistrate, Abohar, on instructions, got registered a FIR under Section 174-A against the petitioner. On notice, petitioner cleared the loan and 'No due certificate' dated 20.11.2015 was issued and on 07.07.2017, the Complaint case i.e. NACT 882 of 2014 was dismissed as withdrawn by the Court of Sub-Divisional Judicial Magistrate, Abohar on the statement of Senior Manager of complainant Bank stating that amount has been settled under OTS scheme.

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 not aware about the complaint under Section 138 of the Negotiable Instrument Act, and being not aware about the proceedings, he never appeared before the learned trial Court, resulting in his being declared a proclaimed person in the complaint case under the Negotiable Instrument Act, vide order dated 31.10.2015 and FIR was registered under Section 174-A IPC which is impugned in the present petition as Annexure P-1. He submitted that during the course of proceedings compromise has been effected between the petitioner and the Bank and the aforesaid complaint titled "Canara Bank Vs. Anil Kumar" has since been dismissed as withdrawn vide order dated 07.07.2017 (Annexure P-7). As per learned counsel for the petitioner, since the original proceedings i.e. the aforesaid complaint have 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-1) under Section 174-A IPC shall be quashed.

5. The learned State counsel has admitted the factum of compromise and withdrawal of complainant under Section 138 of the Negotiable Instrument Act, against the petitioner vide order dated 07.07.2017. However, he submits that as the petitioner had been declared as proclaimed offender 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 titled “Canara Bank Vs. Anil Kumar” was filed under Section 138 of the Negotiable Instrument Act and the present petitioner was declared proclaimed offender vide order dated 31.10.2015 in the said complaint and on the basis thereof, the impugned FIR (Annexure P-1) was registered against him. It is not disputed that the aforesaid complaint has since been withdrawn by the complainant-Bank vide order dated 07.07.2017 (Annexure P-7) on the basis of amicable settlement between the parties. It is, the case of the petitioner that he was not aware about the registration of the complaint and the subsequent proceedings

resulting in his being declared as proclaimed offender. 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 offender in the case while proceedings were in the notice of petitioner or not, since the main complaint as already stated above stood compromised and the complaint having been withdrawn vide order dated 07.07.2017 (Annexure P-7), the registration of present FIR (Annexure P-1) 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. 307 dated 31.10.2015 registered under Section 174-A IPC at Police Station City-1 Abohar, District, Fazilka (Annexure P-1) and all the subsequent proceedings arising therefrom, stands quashed.

(SANJIV BERRY)
JUDGE

06.09.2023
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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |