

207

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-24477-2022

Date of decision: 21.03.2023

Sukhwinder Singh

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. P.B.S. Goraya, Advocate
for the petitioner.

Mr. Karunesh Kaushal, AAG, Punjab.

RAJESH BHARDWAJ, J.

Petitioner has approached this Court by way of filing the present petition with a prayer for quashing of the FIR No.188 dated 02.08.2019, under Section 174-A of Indian Penal Code, 1860, registered at Police Station Sadar Tarn Taran, District Tarn Taran along with subsequent proceedings arising therefrom as well as order dated 21.12.2018 vide which directions was issued to register the aforesaid FIR.

As per facts of the case, petitioner was prosecuted by complainant i.e. Tarn Taran Central Co-operative Bank through its authorized representative in a complaint under Section 138 of Negotiable Instruments Act (for short 'the Act'). After filing of the complaint, summons were issued but the petitioner did not appear before the trial Court and thus, he was declared proclaimed offender by the trial Court vide order dated 21.12.2018. Learned trial Court directed the police to initiate the proceedings under Section 174-A of Indian Penal Code against the petitioner and resultantly, the FIR under challenge was registered against

the petitioner. Thereafter, the petitioner appeared before the Court and the matter was amicably resolved between both the sides. However, aggrieved by the registration of FIR, petitioner has approached this Court praying for quashing of the same.

It has been vehemently contended by counsel for the petitioner that though the petitioner was prosecuted by the Tarn Taran Central Co-operative Bank through its authorized representative in a complaint under Section 138 of the Act but the petitioner was never served with the summons and thus, he was illegally declared proclaimed offender by the trial Court. He submits that resultantly, the impugned FIR was also unsustainable in the eyes of law. He has further submitted that after having been declared proclaimed offender, petitioner approached the Court of learned Additional Sessions Judge, Tarn Taran and was granted interim bail vide his order dated 14.11.2019. He has submitted that thereafter, the petitioner approached the complainant-Bank and cleared the entire amount due against him. He submits that thus, the matter was compromised between both the sides as the complete amount of loan was paid by the petitioner. He submits that as a result, the matter was finally compromised before the National Lok Adalat on 11.12.2021 and the complaint filed by the complainant-Bank was dismissed as withdrawn on the basis of compromise arrived at between both the sides. He further submits that once the complaint filed under Section 138 of the Act has finally been withdrawn on the basis of compromise, declaration of the petitioner to be a proclaimed offender and continuing with his prosecution in the impugned FIR, is totally an abuse of the process of the Court. He has relied upon the judgments titled as Ashok Madan Vs. State of Haryana and another

(passed in CRM-M-51783-2018 decided on 28.05.2019), Baldev Chand Bansal Vs. State of Haryana and another (passed in CRM-M-43813-2018 decided on 29.01.2019), Vikas Sharma Vs. Gurpreet Singh Kohli and another (passed in CRM-M-32465-2017 decided on 13.09.2017) and Shravan Kumar Singh @ Sarvan Singh Vs. State of Haryana (passed in CRM-M-52319-2021 decided on 15.12.2021) and submits that the impugned FIR deserves to be quashed.

Learned State counsel has submitted that the FIR was registered on the order of the Court as the petitioner was declared proclaimed offender. However, he has not disputed the fact that the matter has already been compromised between the parties and the impugned complaint which was filed under Section 138 of the Act also stood withdrawn as is evident from the order dated 11.12.2021 which is placed on record.

After hearing counsel for the parties and perusing the record, this Court finds that the case of the petitioner is covered by the abovesaid judgments and thus, the prosecution of the petitioner would be nothing but an abuse of the process of the Court. The complaint in which the petitioner was declared proclaimed offender was dismissed as withdrawn in view of the compromise effected between the parties and the petitioner has already paid the entire amount due to the bank. The present case is the outcome of the complaint filed under Section 138 of the Act wherein due to the absence of the petitioner, he was declared proclaimed offender and the FIR was ordered to be registered against him. As the dispute in the main complaint has been settled, no purpose will be served by keeping the present FIR which is the outcome of abovesaid complaint, alive anymore.

Consequently, the present petition is allowed and FIR No.188 dated 02.08.2019, under Section 174-A of Indian Penal Code, 1860, registered at Police Station Sadar Tarn Taran, District Tarn Taran along with subsequent proceedings arising therefrom as well as order dated 21.12.2018 are hereby quashed.

21.03.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No