

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(120)

2023:PHHC:070256
CRM-M-24625-2023
Date of Decision: 15.05.2023

Raghubir Singh

--Petitioner

Versus

State of Haryana & another

--Respondents

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. S.K. Tripathi, Advocate for the petitioner.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under 482 Cr.P.C praying for quashing of impugned order dated 9.1.2020 (Annexure P-3) passed by the learned JMIC, Karnal in criminal complaint no. NACT-6089 of 2018 dated 14.9.2018 vide which petitioner was declared proclaimed person and direction was given to the concerned SHO for initiation of proceedings under Section 174-A IPC against the petitioner and also praying for quashing the impugned FIR No.906 dated 5.11.2022 registered under sections 174-A IPC at Police Station, Karnal Civil Lines against the petitioner.

Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present FIR. He submits that the petitioner had taken a loan of Rs.12,00,000/-from the respondent no.2-Bank under a written loan agreement vide no.915030049821613. He had given one blank signed cheque to the respondent no.2 Bank and the same was misused by the Bank. The said cheque was dishonoured as the cheque was returned unpaid vide memo dated 5.7.2018 with remarks "Funds Insufficient". Thereafter, the respondent-Bank filed a private complaint under Section 138 of Negotiable Instruments Act against the petitioner by mentioning his

incorrect address and because of this the petitioner could not be served. The Trial Court initially issued non-bailable warrants against the petitioner and vide impugned order dated 9.1.2020 declared the petitioner as Proclaimed Person and issued directions for registration of a case under Section 174-A IPC. On this direction FIR was registered. Aggrieved by the same petitioner has filed the present petition.

Learned counsel for the petitioner has stated that petitioner has been falsely implicated in the present case. He submits that respondent no.2-Bank had given wrong address of the petitioner in the complaint filed and despite that learned Trial Court has chosen to proceed against the petitioner by issuing non-bailable warrants which were never served on him. He further submits that thereafter vide impugned order dated 9.1.2020 petitioner was declared proclaimed person and subsequently impugned FIR had been registered against him. He submits that as the respondent no.2-Bank has withdrawn the complaint filed against the petitioner vide order dated 20.3.2023, prosecution of the petitioner in the present case would be nothing but an abuse of the process of law. He submits that in the facts and circumstances of the case impugned order deserves to be quashed.

Notice of motion to respondent no.1, at this stage.

On the asking of the Court, Mr. B.S. Virk, Sr. D.A.G., Haryana accepts notice on behalf of respondent no.1-State.

Learned State counsel submits that petitioner has been rightly declared as Proclaimed Person as he failed to appear on 9.1.2020.

After hearing counsel for the parties and perusing the record, this court finds that the impugned complaint has already been withdrawn by respondent no.2-Bank vide order dated 20.3.2023.

In view of the above position, when the main complaint in which the impugned order was passed, already stands withdrawn, this court is of the opinion that the impugned order dated 9.1.2020 (Annexure P-3) and FIR numbered above deserves to be set aside. Accordingly, order dated 9.1.2020 declaring the petitioner as Proclaimed Person and FIR No.906 dated 5.11.2022 registered under Section 174-A IPC at Police Station, Karnal Civil Lines are quashed subject to subject to payment of Rs.25,000/- as costs to be deposited with the Poor Patients' Welfare Fund, P.G.I.M.E.R., Chandigarh by the petitioner within a period of 15 days from today. As the main complaint already stands withdrawn, so, the petitioner is directed to file receipt of above said costs before the Registry of this court within a period of 20 days from today.

In case the petitioner fails to comply with the above directions, then the order dated 9.1.2020 and FIR detailed above will come in force.

Petition is disposed of in the above terms.

(RAJESH BHARDWAJ)
JUDGE

15.05.2023

lucky	Whether speaking/reasoned:	Yes/No
	Whether Reportable:	Yes/No