

CRM-M-27465-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

281

CRM-M-27465-2023

Date of decision: 28.11.2023

RAJESH KUMAR

...Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Arnav Sood, Advocate,
for the petitioner.

Mr. J.S.Guru, AAG, Punjab.

Mr. Gurnoor Singh Cheema, Advocate,
for respondent No.2.

RAJBIR SEHRAWAT, J. (Oral)

1. The present petition has been filed for quashing of order dated 08.05.2010 (Annexure P-6) passed by the Judicial Magistrate Ist Class, Hoshiarpur, vide which the petitioner was declared a proclaimed offender in case FIR No.162 dated 07.09.2008, registered under Sections 323, 325 and 34 IPC and Sections 148 and 149 IPC (added later on), at Police Station Mahilpur, District Hoshiarpur.

2. It is submitted by learned counsel for the petitioner that the petitioner was involved by the police in the above-mentioned FIR. The petitioner had shifted abroad in December, 2008. Therefore, the petitioner

CRM-M-27465-2023

was not aware of the case against him. Hence, he could not appear before the trial Court. Therefore, the trial Court had declared the petitioner a proclaimed offender, vide above-said order dated 08.05.2010, which is in violation of provisions of Section 82(4) Cr.P.C. When the petitioner came back to India on 03.05.2023 and he came to know about the factum of the registration of the FIR, he talked with the complainant and an amicable settlement was arrived at between the parties qua the dispute involved in the case. As a result, CRM-M-34344-2023 was filed for quashing of FIR, on the basis of compromise. Vide order of the even date, the said petition has been allowed and FIR No.162 dated 07.09.2008, registered under Sections 323, 325 and 34 IPC and Sections 148 and 149 IPC (added later on), at Police Station Mahilpur, District Hoshiapur, alongwith all the subsequent proceedings arising therefrom, has been quashed. There is no other case pending against the petitioner where the petitioner may be required for appearance before the Court. Accordingly, it is submitted by the counsel for the petitioner that the petitioner deserves lenient view from the Court and since the petitioner would not be required to appear in any Court in any substantive proceedings, therefore, the impugned order be quashed so as to save the petitioner from avoidable harassment. It is also submitted by the counsel that otherwise, pursuant to the order dated 30.05.2023 passed by this Court, the petitioner has already appeared before the trial Court.

3. On the other hand, learned State counsel has submitted that the petitioner had run away from the process of Court. Therefore, the Court had to declare the petitioner as proclaimed offender. However, it is not disputed

CRM-M-27465-2023

by learned State counsel that the aforesaid FIR has since been quashed, on the basis of compromise arrived at between the parties, vide impugned order of even date passed in CRM-M-34344-2023.

4. Having considered the respective arguments raised by learned counsel for the parties, this Court finds substance in the arguments raised by the counsel for the petitioner. The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the person remains present before the Court to receive the order or sentence, if any awarded by the trial Court to such a person. However, in the present case, the main FIR in which the petitioner could have been awarded some punishment, already stands quashed on the basis of compromise effected between the parties. The emphasis of the Court has to be towards the amicable settlement qua the offences involved in the aforesaid FIR. Since, the said FIR itself has been wiped out, therefore, the petitioner would not be required to face any other proceedings in which the Court could have awarded any punishment or pass any other order qua the petitioner. Hence, except in the present FIR, the petitioner is not required to appear before any process of law. Therefore, no substantial purpose would be served by keeping the present FIR and the consequent proceedings alive. The interest of justice would be better served, if impugned order is quashed.

5. Accordingly, the present petition is allowed. The order dated order dated 08.05.2010 (Annexure P-6) passed by the Judicial Magistrate Ist Class, Hoshiarpur, vide which the petitioner was declared a proclaimed offender in case FIR No.162 dated 07.09.2008, registered under Sections 323, 325 and 34 IPC and Sections 148 and 149 IPC (added later on), at

CRM-M-27465-2023

Police Station Mahilpur, District Hoshiapur, as well as, any proceedings consequent thereon, is ordered to be quashed.

28.11.2023

parveen kumar

(RAJBIR SEHRAWAT)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No