

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

128

CRM-M-28119-2023
Decided on : 01.06.2023

Sumehak Bansal
Versus
State of Haryana and others
... Petitioner
... Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

PRESENT: Mr. Jatin Bansal, Advocate
for the petitioner

Mr. Dhruv Sihag, AAG, Haryana

Mr. Vineet Sehgal, Advocate
for respondents No. 2 and 3

AMAN CHAUDHARY, J.

1. The present petition has been filed for quashing of FIR No. 1140 dated 26.12.2021 registered under Section 174-A IPC at Police Station Shivaji Nagar, District Gurugram as well as the order dated 13.12.2021 passed by the JMIC, Gurugram vide which the petitioner has been declared proclaimed person.
2. Learned counsel contends that the petitioner was never served the summons in the complaint filed under Section 138 of the Negotiable Instruments Act, on account of which he could not cause appearance. The issue involved is regarding dishonor of security cheques that were given by him as EMI against the

standing loan that he had taken from respondent No. 2. Thereafter, with the permission of respondent No. 2, the house that was mortgaged was sold vide a tripartite settlement agreement. The proceedings were initiated at the address where the petitioner was no longer residing, as the said residential house was sold with consent of the complainant, which led to passing of the order declaring him as a proclaimed person on 13.12.2021 and consequent registration of FIR under Section 174-A on 26.12.2021. He submits that the loan amount stands settled as per the OTS, Annexure P-10 and payment has been made to respondent No.2. He relies on an order passed by this Court dated 15.05.2023, Annexure P-18 wherein the parents of the petitioner, who were the co-borrowers in respect of a similar loan account were also declared proclaimed persons and FIR under Section 174-A IPC was registered on 09.11.2022, however, on the basis of the compromise that had been arrived at i.e. the OTS, they were acquitted by the trial Court vide order dated 09.11.2022 and the FIR in question was quashed. Reliance is placed on **Microqual Techno Limited and others vs. State of Haryana**, 2015(3) R.C.R. (Criminal) 790.

3. Notice of motion.

4. On advance notice, Mr. Dhruv Sihag, AAG, Haryana appears on behalf of the State and Mr. Vineet Sehgal, Advocate appears for respondent Nos. 2 and 3. Learned counsel for respondent Nos. 2 and 3 affirms the aforesaid factum of compromise having been arrived at between the parties and has no objection in quashing of the FIR in question.

5. Heard.

6. This Court in the case of **Murli Jha vs State of Haryana**, 2021(3) R.C.R.(Criminal) 563, while referring to the judgments in **Microqual Techno Limited** (supra); **Rajneesh Khanna vs. State of Haryana and another**, 2017 (3) L.A.R. 555 and CRM-M-32612 of 2020, **Surender Singh vs. State of Haryana and another**, decided 12.01.2021, quashed the proceedings initiated under Section 174-A IPC by observing that, “I have considered the rival submissions of the parties. The FIR is an outcome of the order declaring the petitioner as a proclaimed person in proceedings initiated under section 138 of NI Act which stands settled, the complaint has been withdrawn and the proceedings against the accused petitioner were dropped. In such circumstances, the continuation of prosecution under Section 174-A IPC in pursuance to orders passed by the trial Court cannot be permitted to continue.”

7. It is pertinent to notice that the petitioner was declared proclaimed person without affecting proper service as he was not residing at the said address, as the house was sold, which fact was in knowledge of the complainant. Further, the respondents had entered into a tripartite settlement agreement with the petitioner and assured him that they will withdraw all the legal proceedings pending against him. Thus, his inability to appear before the trial Court being under the said impression, appears to be a justified explanation.

8. Moreso, the dispute has been resolved as per the OTS, Annexure P-10 and thus, the loan amount has been deposited by the petitioner, which has been affirmed by the learned counsel for respondent Nos.2 and 3. Further, the FIR under Section 174-A IPC against the co-borrowers has already been quashed on

account of the matter having been settled with the loan amount having been paid.

9. In light of afore-referred judgements and facts and circumstances of the case and the decisions referred to hereinabove, this Court finds that the continuation of proceedings against the petitioner pursuant to FIR in question, would be an abuse of process of law. Accordingly, the present petition is allowed. The order dated 13.12.2021 passed by the JMIC, Gurugram is set aside and FIR No. 1140 dated 26.12.2021 registered under Section 174-A IPC at Police Station Shivaji Nagar, District Gurugram is quashed, subject to deposit of Rs.25,000/- with the Poor Patients Welfare Fund, PGIMER, Chandigarh.

(AMAN CHAUDHARY)
JUDGE

01.06.2023
Mehak

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