

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

209

CRM-M No.32126 of 2023 (O&M)
DATE OF DECISION: 22nd NOVEMBER, 2023

Naresh

.... Petitioner

Versus

State of Haryana and another

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Aman Kumar, Advocate for
Mr. Deepak Panghal, Advocate,
for the petitioner.

Mr. Viney Phogat, DAG, Haryana with
HC Parveen.

None for respondent No.2.

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RAJBIR SEHRAWAT, J. (Oral)

1. The present petition has been filed by the petitioner under Section 482 Cr.P.C for setting aside the order dated 03.03.2023 passed by the Judicial Magistrate Ist Class, Rohtak (Annexure P-2) and for quashing of FIR No.98 dated 26.03.2023 registered under Section 174-A IPC at Police Station Arya Nagar, Rohtak, Haryana and subsequent proceedings arising out thereof.

2. Status report by way of affidavit of Ravi Khundia, HPS, Deputy Superintendent of Police, District Rohtak is taken on record.

3. It is submitted by learned counsel for the petitioner that the petitioner was involved by the complainant in a case registered under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the Act'). In the said complaint, the petitioner was summoned to face trial. However, the petitioner was never served with the summons issued by the Court below. The petitioner could not appear before the trial Court because the petitioner had no knowledge about the case. The trial Court vide order dated 03.03.2023 declared the petitioner as proclaimed person. When the petitioner came to know about the factum of the complaint and the order declaring the petitioner to be proclaimed person. Thereafter, the petitioner talked with the complainant and an amicable settlement was arrived between the parties qua the dispute involved in the case. As a result, the complainant had applied to the trial Court for withdrawal of the main complaint. The said permission was granted by the trial Court vide order dated 03.05.2023. As a result, the main complaint under Section 138 of the Act stands disposed of and 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, FIR No.98 dated 26.03.2018 registered under Section 174-A IPC at Police Station Arya Nagar, Rohtak, Haryana, be quashed so as to save the petitioner from avoidable harassment.

4. On the other hand, learned State counsel, being instructed by HC Parveen, has submitted that the petitioner had run away from the

process of Court. Therefore, the Court had to declare the petitioner as proclaimed person and also to order registration of FIR under Section 174-A of the IPC. Accordingly, it is submitted that the petitioner is facing the above said FIR under Section 174-A of IPC. However, it is not disputed by learned State counsel that the trial against the petitioner under Section 174-A IPC has not made any significant progress. The case is at initial stage.

5. 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 complaint case in which the petitioner could have been awarded some punishment, already stands disposed of as withdrawn, having been settled between the parties. The emphasis of the Court has to be towards the amicable settlement qua the offences like under Section 138 of the Act. Since, the said offence 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 FIR No.98 dated 26.03.2023

registered under Section 174-A IPC at Police Station Arya Nagar, Rohtak, Haryana is quashed.

6. Accordingly, the present petition is allowed. The order dated 03.03.2023 passed by the trial Court, whereby the petitioner was declared as a proclaimed person, FIR No.98 dated 26.03.2023 registered under Section 174-A IPC at Police Station Arya Nagar, Rohtak, Haryana, as well as, any proceedings consequent thereon are ordered to be quashed.

22nd NOVEMBER, 2023
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(RAJBIR SEHRAWAT)
JUDGE

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