

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CRM-M No. 33733 of 2023 (O&M)
Date of Decision: 07.12.2023**

Sunil Kumar

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Manik Makkar, Advocate,
for the petitioner.

Mr. Shubham Kaushik, Assistant Advocate General, Punjab
for respondent No. 1.

HARKESH MANUJA, J. (ORAL)

The petitioner, by way of present petition filed under Section 482 Cr.P.C., seeks quashing of order dated 29.10.2021 (Annexure P-5) passed by learned Judicial Magistrate 1st Class, Rajpura in complaint case No. COMA-1080-2017, dated 19.12.2017, titled "*Harjit Singh Versus Sunil Kumar*", whereby the petitioner was declared a proclaimed person; further quashing of FIR No. 77 dated 21.04.2022 (Annexure P-6) under Section 174-A of the IPC registered at Police Station City Rajpura, District Patiala and all consequential proceedings arising therefrom, in view of the complaint in question having been dismissed as withdrawn vide order dated 12.11.2022 (Annexure P-8).

[2] At the outset, learned counsel for the petitioner has drawn the attention of this Court to order dated 12.11.2022 (P-8) wherein the complaint

in question under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the NI Act') stands withdrawn by the complainant based on an amicable settlement arrived at between the parties and the petitioner having made payment of the said cheque amount to the complainant. A prayer, therefore, has been made that in the aforementioned facts and circumstances, no purpose would be served by prosecuting the petitioner under Section 174-A of the IPC, moreso, when he was not involved in any other criminal case much less under Section 138 of the NI Act nor had he been declared a proclaimed offender prior thereto in any other case.

In support, learned counsel for the petitioner relies upon a judgment dated 09.03.2023 passed by Coordinate Bench of this Court in *CRM-M-11846-2023*, titled “*Sher Singh Versus State of Haryana*”.

[3] This Court, while issuing notice of motion vide order dated 17.07.2023, stayed further proceedings before the trial Court. However, notice to respondent No. 2 / complainant could not be served due to non-filing of process fee. In the humble opinion of this Court, since the matter pertains to quashing of proclamation order as well as quashing of FIR under Section 174-A of IPC (supra), the same being between the petitioner and the Court, service of respondent No. 2 / complainant would not be necessary, as the outcome of these proceedings may not directly prejudice to his rights.

[4] Learned State Counsel, while opposing the prayer made by the learned counsel for petitioner, contends that it was evident that the petitioner had intentionally not appeared during the proceedings before the Court below and hence, the prayer of the petitioner deserved to be declined.

[5] I have heard learned counsel for the parties and perused the record. I find substance in submissions made on behalf of learned counsel for the petitioner.

[6] The petitioner was declared a proclaimed person vide impugned order dated 29.10.2021 in a complaint case under Section 138 of the NI Act.

[7] Admittedly, the said complaint was withdrawn after the parties arrived at a compromise. Furthermore, the petitioner was neither involved in any other criminal case nor was he declared a proclaimed offender / person any time prior thereto. Hence, the continuation of criminal proceedings under Section 174-A IPC would serve no useful purpose.

[8] Accordingly, the present petition is **allowed** and the impugned order dated 29.10.2021 declaring the petitioner as proclaimed person as well as FIR registered under Section 174-A IPC and all consequential proceedings arising therefrom are set aside, subject to payment of costs of Rs.5,000/- by the petitioner to be deposited with the Diagnostic Centre, Punjab & Haryana High Court Bar Association, Chandigarh, having Account No. 41564846387 with State Bank of India, High Court Branch, Chandigarh, which shall be a condition precedent.

December 07, 2023

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**(HARKESH MANUJA)
JUDGE**

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>