

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

124

CRM-M-42703-2023

Date of decision: 28.08.2023

Saleem Bakhtawar

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Jitender S. Chahal, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

1. The instant petition has been filed under Section 482 Cr.P.C. for quashing of order dated 06.01.2020 (Annexure P/2) passed by learned JMIC, Yamuna Nagar at Jagadhri in Complaint bearing No.NIA-1538-2018 titled as 'Mohinder Singh Vs. Saleem Bakhtawar' filed under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the NI Act') whereby the petitioner has been declared a proclaimed person as well as for quashing of FIR No.406 dated 23.03.2020 under Section 174-A of the IPC registered at Police Station Jagadhri City, District Yamuna Nagar (Annexure P/3) and all subsequent proceedings arising therefrom, in view of the complaint in question having been dismissed as withdrawn vide order dated 17.07.2023 (Annexure P/4).

2. Learned counsel for the petitioner has primarily prayed for setting aside of the impugned order on the ground that he was never served either with the summons or warrants issued by the Trial Court in the complaint instituted under Section 138 of the NI Act. Learned

counsel, therefore, submits that absence of the petitioner was thus, not intentional as he was unaware about the pendency of the complaint instituted against him under Section 138 of the NI Act and still further, even the proclamation was never served upon him as per the provisions of Section 82 Cr.P.C. Learned counsel has vehemently contended that as soon as the petitioner learnt about the pendency of the complaint in question, he immediately made the payment of the cheque amount to the complainant and compromised the matter with him. Resultantly, the complaint instituted under Section 138 of the NI Act by the complainant, was withdrawn by him on 17.07.2023. In support, he has drawn the attention of this Court to Annexure P/4 wherein it stands reflected that the matter stood amicably settled between the parties and the complaint stood withdrawn. 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 IPC, more so, 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 person prior thereto in any other case.

3. Notice of motion.

4. On asking of the Court, Mr. Rahul Mohan, Sr. DAG, Haryana, Haryana accepts notice on behalf of respondent No.1-State.

5. Learned State counsel has opposed the prayer made by the counsel opposite and contended 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.

6. Heard learned counsel for the parties and perused the relevant material on record.

7. The petitioner was declared a proclaimed person vide impugned order in a complaint case under Section 138 of the NI Act. Admittedly, the said complaint was withdrawn after the parties arrived at a compromise. Furthermore, the petitioner is neither involved in any other criminal case nor was he declared a proclaimed 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 06.01.2020 declaring the petitioner as proclaimed person as well as FIR registered under Section 174-A IPC and consequential proceedings arising therefrom are set aside.

28.08.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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