

206 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-42178-2023

Date of Decision: 12.12.2023

Pawan Kumar

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Lalit Kumar Narang, Advocate,
for the petitioner.

Mr. Viney Phogat, DAG, Haryana.

HARKESH MANUJA, J.

1. By way of present petition filed under Section 482 Cr.P.C., prayer has been made for seeking quashing of order dated 15.10.2019 passed by the Court of Judicial Magistrate Ist Class, Bhiwani, whereby, the petitioner was declared as proclaimed person, besides, registration of FIR No.413, dated 21.11.2019, under Section 174-A IPC, Police Station Bhiwani Civil Lines, District Bhiwani.

2. Briefly stated, on account of dishonour of cheque bearing No.004452 dated 15.05.2017, a complaint bearing No.COMA-782 of 2017, under Section 138 of the Negotiable Instruments Act, 1881 (for short, "1881 Act"), titled as "Hari Kishan Goyal vs. Pawan Kumar" came to be filed at the instance of complainant, wherein, the petitioner was summoned. Later, on account of his non-appearance, the petitioner was declared as proclaimed person vide order dated 15.10.2019, followed by registration of FIR under

Section 174-A IPC against him. Later, a settlement came to be arrived at between the parties as the petitioner discharged his liability by paying the entire cheque amount in favour of complainant and in pursuance thereof, the complaint under Section 138 of the 1881 Act, was withdrawn by complainant and complaint file was ordered to be consigned to the record room, vide order dated 28.07.2021 passed by the court of learned Judicial Magistrate Ist Class, Bhiwani.

3. Learned counsel for the petitioner submits that once the main proceedings under Section 138 of the Act, 1881 have already come to an end and petitioner already stands acquitted, no useful purpose is going to be served by continuing with the proceedings arising out of the FIR in question. In support, learned counsel for the petitioner relies upon judgments of this Court, passed in CRM-M-16449-2018, titled as “Satish Kumar vs. State of Haryana and another” and CRM-M-30911-2021, titled as “Ram Kumar Rana vs. State of Haryana and another”.

4. On the other hand, learned State counsel opposes the prayer made in the petition while submitting that the non-appearance of the petitioner was deliberate attempt on his part to avoid the process of law.

5. I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the petitioner.

6. Once, the complaint under Section 138 of the 1881 Act, already stands withdrawn by complainant on having received the entire cheque amount in dispute, no useful purpose is going to be served by carrying on with the proceedings arising out of the present FIR. Even otherwise, the case

of the petitioner is fully covered with the judgments passed by this Court in **Satish Kumar's** case (supra) and **Ram Kumar Rana's** case (supra). Besides it, the petitioner already stands acquitted in the complaint case under Section 138 of the 1881 Act.

7. In view of discussion made herein-above, the present petition is allowed. Consequently, the impugned order dated 15.10.2019 passed by the Judicial Magistrate Ist Class, Bhiwani declaring the petitioner as proclaimed person is set aside. The FIR No.413 dated 21.11.2019 registered under Section 174-A IPC at Police Station Bhiwani Civil Lines, District Bhiwani, Haryana alongwith all consequential proceedings arising therefrom are also quashed.

8. The aforesaid order is subject to payment of costs of Rs.5,000/- to be deposited with the Punjab and Haryana High Court Bar Clerk's Association, within a period of two weeks from the date of receipt of certified copy of this order.

12.12.2023

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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned: yes/no

Whether reportable? yes/no