

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

234

CRM-M-41112-2019 (O&M)

Date of Decision: 04.08.2023

JASBIR KUMAR

... Petitioner

Versus

STATE OF HARYANA AND ANR

... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. SD Singh, Advocate and
Ms. Shweta Sinha, Advocate
for the petitioner.

Ms. Ankita Ahuja, AAG, Haryana.

Mr. SK Gupta, Advocate
for respondent No.2.

HARNARESH SINGH GILL, J.(Oral)

Prayer in this petition is for setting aside the orders dated 13.12.2018, 25.12.2018, 08.12.2018 and 20.02.2019 and for quashing FIR No.159 dated 18.02.2019, registered under Section 174-A IPC, at Police Station Mujerssar, along with all the consequential proceedings arising therefrom.

On 24.09.2019, the following order was passed by a Coordinate Bench of this Court:-

'Prayer in this petition is for setting aside the order dated 20.02.2019, vide which the petitioner was declared a proclaimed person and a direction was issued to register an FIR under Section 174-A IPC.

Learned counsel for the petitioner submits that initially, the complaint filed by respondent No.2-

complainant was dismissed for non-prosecution and the same was later on restored in an appeal filed by him before this Court. It is further submitted that in the year 2015, the petitioner had left the previous job and all the summons were issued on the said address and he was never served with the summons. Learned counsel further submits that the petitioner will appear before the trial Court in the proceedings under Section 138 of Negotiable Instruments Act as well as before the Investigating Officer in FIR registered under Section 174-A IPC, within a period of one month from today.

Notice of motion for 15.11.2019.

In case the petitioner appears before the trial Court, he will be released on interim bail subject to his furnishing bail/surety bonds. The petitioner will also appear before the Investigating Officer to join the investigation in FIR under Section 174-A IPC and his arrest is stayed subject to the conditions envisaged under Section 438 (2) Cr.P.C.'

Learned counsel for the petitioner submits that in compliance of the aforesaid order, the petitioner had appeared before the Court below and since then, he has been regularly appearing and that the petitioner has also joined the investigation in FIR under Section 174-A IPC. He, thus, prays that the FIR in question, which was registered under Section 174-A IPC, be quashed.

On the other hand, learned counsel for respondent No.2 submits that the petitioner has not approached this Court with clean hands, inasmuch as, he has all the knowledge regarding the pendency of the petition under Section 138 of the Negotiable Instruments Act, 1881,

yet the fact remains that he choose not to appear and thus, was rightly declared as a proclaimed person by the Court below. He, thus, prays for dismissal of the present petition.

I have heard the learned counsel for the parties.

As noticed above, vide order dated 24.09.2019 passed by a Coordinate Bench of this Court, the petitioner had been directed to appear before the learned trial Court. In compliance of the said order, the petitioner has appeared and has been continuously appearing before the learned trial Court. He has also joined the investigation in FIR registered under Section 174-A IPC.

In view of the above, the present petition is allowed and FIR No.159 dated 18.02.2019, registered under Section 174-A IPC, at Police Station Mujerssar, along with all the consequential proceedings arising therefrom, are quashed qua the petitioner, subject to his paying costs of Rs.25,000/- to respondent No.2/complainant.

Orders dated 13.12.2018, 25.12.2018, 08.12.2018 and 20.02.2019 passed by the learned trial Court, are also quashed.

04.08.2023

Aman Jain

(HARNARESH SINGH GILL)

JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*