

CRM-M-42793-2023

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

204

CRM-M-42793-2023
Date of decision: 03.11.2023

GOPAL VERMA

...Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Prashant Bansal, Advocate,
for the petitioner.

Mr. G.S.Sandhu, DAG, Punjab.

Mr. Sandeep Sharma, Advocate for
Mr. Sumit Dua, Advocate,
for respondent No.2.

RAJBIR SEHRAWAT, J. (Oral)

1. The present petition under Section 482 Cr.P.C., has been filed for quashing of the impugned order dated 22.02.2023 (Annexure P-1) passed by Sub Divisional Judicial Magistrate, Rajpura, whereby the petitioner has been declared as proclaimed person in complaint case No.602 dated 06.06.2016, under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act'), titled as 'Dharam Kaur Vs. Gopal Verma, with a further prayer for quashing of FIR No.104 dated 28.04.2023, registered under Section 174-A IPC, at Police Station City Rajpura, District Patiala.

2. It is submitted by learned counsel for the petitioner that the petitioner was involved by respondent No.2-complainant in the complaint

CRM-M-42793-2023

filed under Section 138 of the Act. In the said complaint, the petitioner was summoned to face trial. Notice of accusation was served upon the petitioner. However during pendency of complaint, the petitioner could not appear before the trial Court as he was informed by his counsel that he has been acquitted. The trial Court, vide order dated 22.02.2023, declared the petitioner as proclaimed person. No warrant of arrest was ever served upon the petitioner at any point of time. The provisions of Section 82 Cr.P.C. have not been complied with while declaring the petitioner as proclaimed person. The petitioner talked with the complainant and an amicable settlement was arrived between the parties qua the dispute involved in the case. The complainant made a statement before the trial Court that she has received the cheque amount and, therefore, she does not want to pursue the complaint. As a result, the main complaint under Section 138 of the Act stands dismissed as withdrawn and there is no other case pending against the petitioner where the petitioner may be required for appearance before the Court.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, the order dated 22.02.2023 (Annexure P-1) and FIR No.104 dated 28.04.2023, registered under Section 174-A IPC, at Police Station City Rajpura, District Patiala, be quashed so as to save the petitioner from avoidable harassment.

3. On the other hand, learned State counsel, being instructed by ASI Darshan Lal, has submitted that the petitioner had run away from the process of Court. Therefore, the Court had to declare the petitioner as

CRM-M-42793-2023

proclaimed person and also to order registration of FIR under Section 174-A IPC. Accordingly, it is submitted that the petitioner is facing the above said FIR under Section 174-A 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.

4. 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, 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 order dated 22.02.2023 (Annexure P-1) and FIR No.104 dated 28.04.2023, registered under Section 174-A IPC, at Police Station City Rajpura, District Patiala, are quashed.

CRM-M-42793-2023

5. Accordingly, the present petition is allowed. The order dated 22.02.2023 (Annexure P-1) passed by Sub Divisional Judicial Magistrate, Rajpura, whereby the petitioner has been declared as proclaimed person, and FIR No.104 dated 28.04.2023, registered under Section 174-A IPC, at Police Station City Rajpura, District Patiala, as well as, any proceedings consequent thereon, are ordered to be quashed.

03.11.2023
parveen kumar

(RAJBIR SEHRAWAT)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No