

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-43005-2023 (O&M)

Date of Decision: 29.08.2023

Manoj

. . . . Petitioner

Vs.

State of Haryana

. . . . Respondent

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Satish Garg, Advocate, for the petitioner.

DEEPAK GUPTA, J.

Prayer in this petition filed under Section 482 Cr.P.C. is to quash FIR No.137 dated 24.10.2017 (Annexure P5) registered at Police Station Sector 20, Panchkula, under Section 174-A of the IPC and all the consequential proceedings.

2. In criminal complaint bearing NACT No.713 of 2015 titled 'Davinder Vs. Manoj', accused Manoj (petitioner herein) was declared proclaimed person vide order dated 03.07.2017 by Id. JMIC, Panchkula and on the direction of the Court, present FIR No.137 dated 24.10.2017 was registered against him under Section 174A IPC.

3. It is contended by Id. counsel that petitioner had appeared in the Court and notice of accusation was served upon him, but being a disabled person, he could not appear in the later proceedings, due to which warrant of arrest were issued against him and ultimately, he was declared proclaimed person. Id. counsel contends that petitioner was ready to address the grievance of the complainant by making payment of ₹83,000/- to him and that after mutual understanding between the parties,

matter has been compromised and a statement regarding the same was made vide Annexure P6; and that complaint itself was dismissed as withdrawn vide order dated 16.08.2023 (Annexure P7) and therefore, the order declaring the petitioner as proclaimed person and the consequent proceedings be quashed.

4. Notice of motion.

5. Mr. Vipul Sherwal, AAG, Haryana accepts notice on behalf of the respondent/State. He opposed the prayer of the petitioner.

6. As admitted by the petitioner himself, after the summoning order was passed in the complaint case, he had appeared in the Court and notice of accusation was served upon him. Said fact is even otherwise evident from order dated 09.11.2015 (Annexure P1), as per which notice to the accused was duly served. Annexure P2 is the order dated 05.08.2016, revealing that petitioner-accused appeared and notice of accusation was served upon him on that day. Thus, it is apparent that by not appearing later on before the trial Court, petitioner misused the concession of bail granted to him, due to which his bail was to be cancelled and as his presence could not be secured by way of warrants of arrest and then the proclamation, so he was declared proclaimed person, resulting into the registration of FIR under Section 174A IPC.

7. Simply because complaint in question, wherein petitioner was declared proclaimed person, was later on withdrawn on 16.08.2023, can't be a ground to quash the FIR, which was registered much earlier. Apart from this, compromising the private complaint was a matter between the petitioner and the complainant of the case; whereas the FIR under Section 174A IPC is the matter between the petitioner and the

State. Petitioner having misused the concession of bail granted to him, which delayed the disposal of the complaint by a period of more than 4 years, cannot be given benefit of the fact that complaint has been withdrawn.

8. Faced with the aforesaid situation, ld. counsel for the petitioner has made a prayer to direct the trial Court to accept the plea of guilt of the petitioner and to consider imposition of fine only upon him under Section 174A IPC.

9. The aforesaid request of the counsel for the petitioner is accepted. Since offence under Section 174A IPC (first part), is punishable with imprisonment for three years or with fine, therefore, ld. trial Court shall consider imposition of fine only upon the petitioner, in case petitioner pleads guilty, having regard to the fact that complaint case in which petitioner was declared proclaimed person, has already been dismissed as withdrawn.

Disposed of.

(DEEPAK GUPTA)
JUDGE

29.08.2023

Vivek

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No