

CRM-M-43598-2023

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

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**CRM-M-43598-2023
Date of decision: 14.11.2023**

SURJEET

...Petitioner

Versus

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Jasvir Singh Dhaliwal, Advocate,
for the petitioner.

Mr. Viney Phogat, DAG, Haryana.

Mr. Gurmeet Singh Bhinder, Advocate,
for respondent No.2.

RAJBIR SEHRAWAT, J. (Oral)

1. The present petition has been filed for quashing of FIR No.426 dated 27.11.2021, registered under Section 174-A IPC, at Police Station City Mandi Dabwali, District Sirsa, and for quashing the order dated 15.11.2021 (Annexure P-2) passed by Judicial Magistrate Ist Class, Dabwali, whereby the petitioner was declared a proclaimed person in case bearing No.NACT/206/2017.

2. It is submitted by learned counsel for the petitioner that the petitioner was involved by respondent No.2 in a case filed under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the Act'). In the said complaint, the petitioner was summoned to face trial. However, the

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petitioner was never served with the summons issued by the Court below. As a result, the petitioner had no knowledge qua the summoning order and, therefore, he could not appear before the trial Court. The trial Court, vide order dated 15.11.2021, declared the petitioner as proclaimed person. When the petitioner came to know about the factum of the complaint and the order declaring him to be proclaimed person, then he contacted respondent No.2 and an amicable settlement was arrived at between the parties qua the dispute involved in the case. As a result, respondent No.2 had applied to the trial Court for withdrawal of the main complaint. The said permission was granted by the trial Court, vide order dated 24.08.2023. As a result, the main complaint under Section 138 of the Act stands disposed of 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, FIR No.426 dated 27.11.2021, registered under Section 174-A IPC, at Police Station City Mandi Dabwali, District Sirsa, be quashed so as to save the petitioner from avoidable harassment.

3. On the other hand, learned State counsel, being instructed by the concerned police official, has submitted that the petitioner had run away from the process of Court. Therefore, the Court had to declare the petitioner as proclaimed person and also to order registration of FIR under Section 174-A of the IPC. Accordingly, it is submitted that the petitioner is facing the above said FIR under Section 174-A of IPC. However, it is not

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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 as withdrawn, 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 FIR No.426 dated 27.11.2021, registered under Section 174-A IPC, at Police Station City Mandi Dabwali, District Sirsa, is quashed.

5. Accordingly, the present petition is allowed. The order dated 15.11.2021 (Annexure P-2) passed by Judicial Magistrate Ist Class, Dabwali, whereby the petitioner was declared as a proclaimed person; FIR

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No.426 dated 27.11.2021, registered under Section 174-A IPC, at Police Station City Mandi Dabwali, District Sirsa, as well as, any proceedings consequent thereon are ordered to be quashed.

14.11.2023
parveen kumar

(RAJBIR SEHRAWAT)
JUDGE

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