

CRM-M-44244-2023 (O&M)

125

2023:PHHC:120110

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-43886-2023 (O&M)

Date of decision: 04.09.2023

Sant Fateh Singh

....Petitioner

versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Ms. Pallavi Babbar, Advocate for petitioner.

Ms.Svaneel Jaswal, Addl.AG., Haryana.

ARUN MONGA, J. (ORAL)

Present petition has been filed under Section 482 Code for quashing of complaint No.NACT-973-2007, dated 13.06.2007, registered under Section 138 of the Negotiable Instrument Act, 1881, read with Section 420 IPC alongwith the order dated 08.06.2011 (Annexure P-2) passed by the Judicial Magistrate First Class, Jagadhari at Yamunanagar, whereby petitioner was declared as a proclaimed person and all subsequent proceedings emanating therefrom, on the basis of the compromise dated 31.07.2023 Annexure P-3.

2. Notice of motion.

3. On advance service of copy of petition, learned State counsel appears and accepts notice on behalf of respondent-State of Haryana.

4. At this stage, Mr. Kushager Goyal, Advocate, appears and accepts notice on behalf of respondent no.2 and files his power of attorney, which is taken on record.

5. Learned counsel for the petitioner contends that matter stands settled as per the compromise and affidavit dated 31.07.2023 Annexures P-3 and P-4, respectively, vide which petitioner has paid an amount of Rs.60,000/- to complainant/respondent no.2 and the complainant is bound to make statement in favour of petitioner upon filing of present petition for quashing of complaint case and proclamation proceeding.

CRM-M-44244-2023 (O&M)

6. Learned State counsel opposes the prayer made and submits that order declaring petitioner as a proclaimed person has rightly been passed.

7. Learned counsel for the complainant/respondent no.2 does not deny the factum of compromise entered into between the parties and does not object to the quashing of complaint under Section 138 NI Act and proclamation proceedings.

8. Arguments heard.

9. The complaint against the petitioner was for an offence under section 138 of the Act.

9.1 Vide order dated 08.06.2011 (Annexure P-2) passed by learned Judicial Magistrate 1st Class, Jagadhari, Yamunanagar, recorded its satisfaction that the accused-petitioner had absconded, declared him as a proclaimed person and directed that intimation be sent to the concerned police station. The only further direction in the order is that as and when the accused is arrested or produced in court by the P.O. staff, the proceedings against him will be initiated.

9.2 Vide compromise deed dated 31.07.2023, both the parties have compromised the matter following payment of the due amount by the petitioner to the complainant, with the factum of compromise admitted by learned counsel appearing for the complainant/respondent no.2.

9.3 Learned counsel for complainant-respondent no.2 does not dispute that compromise deed dated 31.07.2023 Annexure P-3 has been reached between the complainant and the petitioner. The compromise *ibid* shows that against the unpaid cheque for Rs. 40,000/-, the complainant- respondent No. 2 has received the amount of Rs. 60,000/- from the petitioner and his claim in the complaint has been satisfied. The grievance in the complaint does not survive. Pursuant to the complainant's undertaking in compromise deed dated 31.07.2023 Annexure P-3, his learned counsel states that he has no objection if the petition is allowed.

9.4 The provisions for declaring any person as a "proclaimed person" or "proclaimed offender" etc. are contained in Chapter VI of the Code of Criminal Procedure captioned "Processes to compel appearance". It appears that their primary

CRM-M-44244-2023 (O&M)

object and intent is to secure /compel appearance of the concerned person to facilitate the trial of criminal cases and obviate delay in their disposal.

10. Considering the aforesaid facts and circumstances, I am of the opinion that the complaint case as order dated 08.06.2011 (Annexure P-2) passed by the learned Judicial Magistrate Ist Class, Jagadhari, and all subsequent proceedings emanating therefrom are liable to be quashed.

11. Accordingly, criminal complaint No.NACT-973-2007, dated 13.06.2007 (Annexure P-1), registered under Section 138 of the Negotiable Instrument Act, 1881, read with Section 420 IPC is quashed and the order dated 08.06.2011 (Annexure P-2) passed by the Judicial Magistrate First Class, Jagadhari at Yamunanagar, are hereby set aside. All consequential proceedings arising from the aforesaid complaint against the petitioner, are also quashed.

12. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

04.09.2023
'D'vir/

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No