

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

206

CRM-M No.44412 of 2023 (O&M)
DATE OF DECISION: 24th NOVEMBER, 2023

Vishal Aggarwal

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Naveen Sharma, Advocate for the petitioner.

Mr. Viney Phogat, DAG, Haryana.

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RAJBIR SEHRAWAT, J. (Oral)

1. The present petition has been filed by the petitioner under Section 482 Cr.P.C. for quashing of FIR No.1185 dated 26.06.2019 registered under Section 174-A IPC at Police Station Shivaji Nagar, District Gurugram and subsequent proceedings arising out thereof.

2. It is submitted by learned counsel for the petitioner that the petitioner was involved by the complainant in a case registered 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 petitioner was never served with the summons issued by the Court below. The petitioner could not appear before the trial Court because the petitioner had no knowledge about the case. The trial Court vide order dated 19.01.2019 declared the petitioner as proclaimed person. However, after filing of the complaint, matter was settled between the

parties and the complainant had even given this in writing vide letter dated 20.07.2018. As a result, the complainant had applied to the trial Court for withdrawal of the main complaint. The said permission was granted by the trial Court vide order dated 13.07.2019. Accordingly, 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.1185 dated 26.06.2019 registered under Section 174-A IPC at Police Station Shivaji Nagar, District Gurugram, 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 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.1185 dated 26.06.2019 registered under Section 174-A IPC at Police Station Shivaji Nagar, District Gurugram is quashed.

5. Accordingly, the present petition is allowed. The order dated 19.01.2019 and consequent FIR No.1185 dated 26.06.2019 registered under Section 174-A IPC at Police Station Shivaji Nagar, District Gurugram, as well as, any proceedings consequent thereon are ordered to be quashed.

24th NOVEMBER, 2023
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(RAJBIR SEHRAWAT)
JUDGE

Whether speaking/reasoned:

Yes

No

Whether Reportable:

Yes

No