

204 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-49342-2022
Decided on : 08.02.2023

Kirin Gupta @ Kiran Gupta and another Petitioners

Versus

State of Haryana Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Ashok Kumar Jindal, Advocate
for the petitioners.

Mr. Rahul Mohan, DAG, Haryana.

Manjari Nehru Kaul, J.(Oral)

Petitioners are seeking quashing of FIR No.192 dated 01.03.2019 under Section 174-A IPC registered at Police Station Mujesar District Faridabad (Annexure P-1) and all the consequential and subsequent proceedings arising therefrom on the basis of compromise dated 09.08.2022 (Annexure P-6).

Learned counsel for the petitioners submits that neither demand notice under the Negotiable Instruments Act (hereinafter referred to as 'the Act') was served upon them nor were service of summons issued by the trial Court effected upon them. Hence, the absence of the petitioners was not intentional as they were unaware about the pendency of the complaint, instituted against them under Section 138 of the Act. Learned counsel has further submitted that the provisions of Section 82 Cr.PC were not complied with while effecting proclamation. Learned counsel has vehemently

contended that as soon as petitioners learnt about the pendency of the complaint in question, they immediately made payment of the cheque amount to respondent No.2, as a result of which the matter between the parties was compromised. Learned counsel has also drawn the attention of this Court to Annexure P-6, which is a statement made by respondent No.2 complaint filed before the Court below wherein it stands reflected that the complaint instituted under Section 138 of the Act was withdrawn on 09.08.2022. A prayer, therefore, has been made that in the aforementioned facts and circumstances, no purpose would be served by prosecuting the petitioners under Section 174-A IPC, more so, when they were not involved in any other criminal case much less under Section 138 of the Act nor had they been declared proclaimed offenders prior thereto in any other case.

Per contra, learned State counsel has opposed the prayer made the counsel opposite and contended that the petitioners had intentionally not appeared before the Court below and hence, the prayer made by the petitioners deserved to be declined. Learned State counsel however, has not been able to controvert that the matter under Section 138 of the Act has indeed been compromised between the petitioner and the complainant and the complaint under Section 138 of the Act made against the petitioners stands withdrawn.

Heard learned counsel for the parties and perused the relevant material on record.

The petitioners were declared proclaimed persons vide impugned order dated 30.11.2018 in a complaint case under Section 138 of the Act. It is a matter of record that the said complaint was withdrawn after

the parties arrived at a compromise. Furthermore, the petitioners are neither involved in any other criminal case nor were they declared proclaimed offenders any time prior thereto. Hence, the continuation of criminal proceedings under Section 174-A IPC would serve no useful purpose. Accordingly, the present petition is allowed and the impugned order dated 30.11.2018 declaring the petitioners as proclaimed persons as well as FIR registered under Section 174-A IPC and consequential proceedings arising therefrom are set aside.

(MANJARI NEHRU KAUL)
JUDGE

08.02.2023
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No