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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-50261 of 2023
Date of Decision: 14.12.2023

MANOJ KUMAR

... Petitioner

Versus

STATE OF PUNJAB AND ANR.

... Respondents

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Prashant Bansal, Advocate
for the petitioner.

Mr. Subhash Godara, Addl. A.G., Punjab.

Mr. Sandeep Sharma, Advocate
for the complainant-respondent No.2

SANJIV BERRY, J. (ORAL)

The instant petition has been preferred by the petitioner under Section 482 of the Code of Criminal Procedure for seeking quashing of the FIR (Annexure P-1) arising out of order dated 06.07.2023:-

FIR No.	Dated	Sections	Police Station
213	25.07.2023	174-A IPC	City Rajpura, District Patiala

2. In nutshell, the brief facts of the case are that Ravinder Kumar-complainant-respondent No.2 had filed a criminal complaint bearing No. COMA 569/2019 dated 14.08.2019 titled as *Ravinder Kumar vs. Manoj Kumar* against the petitioner under Section 138 of the Negotiable Instrument Act, 1881, summons were issued and petitioner failed to appear before the Court and vide orders dated 06.07.2023 petitioner was declared as proclaimed person and SHO PS City, Rajpura was directed to register case

under Section 174-A IPC and hence the petition for quashing of the impugned order as well as all consequential proceedings arising therefrom.

3. It is, *inter alia* contended by learned counsel for the petitioner that compromise has been effected between the parties and complainant vide Annexure P-2 dated 28.09.2023 recorded his statement stating that “as per compromise, I have received the cheque amount from the accused and now nothing is due towards him” and vide order dated 28.09.2023 (Annexure P-3) passed by Judicial Magistrate First Class, Rajpura the complaint in question was ordered to be dismissed as withdrawn. He further submits that original proceedings i.e. the aforesaid complaint has already come to an end on the basis of compromise, therefore, present proceedings under Section 174-A IPC should also come to an end. He has referred to the judgments cited as *Harbans Singh vs. State of Haryana, and another, CRM-M-56596 of 2022, AIR Online 2022 (P and H) 1035; Aditya Goyal vs. State of Haryana, CRM-M-11269 of 2019: AIR Online 2019 (P and H) 2070; Lakhwinder Singh vs. State of Punjab, CRM-M- 37155-2021; CRM-M-16528 of 2023, Harnek Singh Vs. State of Haryana; CRM-M-52319-2021, Sharvan Kumar Singh @ Sarvan Singh vs. State of Haryana; CRM-M-4344 of 2017, Anil Kumar vs. State of Punjab and another;* to argue that since the main complaint filed under Section 138 of the Negotiable Instrument Act has been withdrawn by the complainant on the basis of amicable settlement, therefore, the present proceedings arising out of the FIR dated 25.07.2023 (Annexure P-1) under Section 174-A IPC shall be quashed and consequential proceedings arising therefrom be also set aside.

4. The learned State counsel on instructions from ASI Lakhvinder

Singh has admitted the factum of compromise and withdrawal of complaint under Section 138 of the Negotiable Instrument Act, against the petitioner vide order dated 28.09.2023 (Annexure P-3).

5. Mr. Sumit Dua Advocate has put in appearance on behalf of Complainant-respondent No.2 and filed Vakalatnama. The same is taken on record. He submits that the matter has been compromised between the parties and statement in this regard had been made vide Annexure P-2 dated 28.09.2023 and vide Annexure P-3 dated 28.09.2023 aforesaid complaint has been dismissed as withdrawn.

6. I have heard the respective submission made by the learned counsel for the parties.

7. After considering the rival contentions and perusing the record, it is not disputed that a complaint was filed under Section 138 of the Negotiable Instrument Act against the petitioner and the present petitioner was declared proclaimed person vide order dated 06.07.2023 in the said complaint and on the basis thereof, the impugned FIR No.213 dated 25.07.2023 (Annexure P-1) was registered against him. It is not disputed that the aforesaid complaint has since been withdrawn by the complainant vide order dated 28.09.2023 (Annexure P-3) on the basis of amicable settlement between the parties. It has been held in the judgments referred to above that when the main complaint in which the petitioner has been declared proclaimed person have been withdrawn on the basis of amicable settlement then continuation with the proceedings under Section 174-A IPC would be nothing but the abuse of the process of law.

8. Therefore, considering the facts and circumstances of the

present case, without going into the controversy as to whether the petitioner was aware of the proceedings going against him under the Negotiable Instrument Act or not; the fact remains that the petitioner had been declared as proclaimed person in the complaint referred to above vide order dated 06.07.2023 and the complaint has already been dismissed as withdrawn vide order dated 28.09.2023(Annexure P-3), meaning thereby with the dismissal of the complaint the impugned order passed during the course of proceedings of the complaint had already stood culminated, therefore, the registration of the present FIR on the basis of above said order declaring the petitioner as proclaimed person would not serve any purpose and keeping the said FIR and consequent proceedings alive after the dismissal of the complaint would not serve any purpose but would be abuse of process of law.

9. Consequently, keeping in view the above said facts and circumstances, the present petition is allowed, impugned FIR No.213 dated 25.07.2023 registered under Section 174-A IPC at Police Station City Rajpura, District Patiala (Annexure P-1) arising out of order dated 06.07.2023 passed by the learned Judicial Magistrate First Class, Rajpura in complaint case No.COMA 569/2019 dated 14.08.2019 titled as *Ravinder Kumar vs. Manoj Kumar* and all consequential proceedings arising therefrom are hereby set aside.

10. Petition stand allowed.

(SANJIV BERRY)
JUDGE

14.12.2023

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i)	Whether speaking/reasoned?	Yes
ii)	Whether reportable?	Yes