

CRM-M-51913-2023 (O&M)

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129 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-51913-2023 (O&M)
Date of Decision: 17.10.2023

Vinod

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Atul Ravish, Advocate,
for the petitioner.

RAJBIR SEHRAWAT, J. (ORAL)

1. The present petition under Section 482 of the Code of Criminal Procedure has been filed for quashing of the impugned order dated 19.05.2023 passed by the Additional Civil Judge (Senior Division)-cum-Sub Divisional Judicial Magistrate, Narwana, District Jind, whereby the petitioner has been declared as a proclaimed person and the Station House Officer concerned was directed to register an FIR under Sections 174-A of the Indian Penal Code (for short 'the IPC') against the petitioner, along with all other subsequent proceedings arising therefrom.

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, on 29.08.2022, the petitioner could not appear before the trial Court and the Court below had issued non-bailable warrants for 30.09.2022. Vide order dated 01.03.2023, proclamation proceedings were initiated against the

petitioner requiring him to appear before the trial Court on 19.05.2023. However, on 19.05.2023, the petitioner again failed to appear before the trial Court because he had sustained gunshot injury on the abdomen and spinal area on 30.08.2022 and in that regard, the Civil Surgeon, Jind, has issued him a disability certificate, which is valid till 25.03.2025. As a result thereof, vide order dated 19.05.2023, the petitioner has been declared as a proclaimed person and the Station House Officer concerned was directed to register an FIR under Sections 174-A of the IPC against the petitioner. Thereafter, the petitioner talked with the complainant/respondent No.2 and an amicable settlement was arrived at between the parties qua the dispute involved in the case. As a result, the complainant had applied to the trial Court for withdrawal of the main complaint. The said permission to withdraw the main complaint was granted by the trial Court vide its order dated 29.08.2023. Accordingly, the main complaint was dismissed as withdrawn. 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, the impugned order dated 19.05.2023 passed by the Additional Civil Judge (Senior Division)-cum-Sub Divisional Judicial Magistrate, Narwana, District Jind, be quashed so as to save the petitioner from avoidable harassment.

3. Notice of motion.

4. On the asking of the Court, Mr. K.K.Chahal, Additional Advocate General, Haryana, accepts notice on behalf of the respondent-State.

5. Learned State counsel 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.

6. 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.

7. Accordingly, the present petition is allowed. The impugned order dated 19.05.2023 passed by the Additional Civil Judge (Senior Division)-cum-Sub Divisional Judicial Magistrate, Narwana, District Jind,

whereby the petitioner was declared as a proclaimed person, as well as, any proceedings consequent thereon, are ordered to be quashed.

17.10.2023
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(RAJBIR SEHRAWAT)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No