

CRM-M-59434-2023
Date of decision: 24.11.2023

Versus

State of Haryana and another ...Respondents

Present: Mr. Vinay Kumar Pandey, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

Learned counsel for the petitioner submits that due to matrimonial discord between the petitioner and respondent No.2, latter had filed a petition for grant of maintenance which was decreed on 12.08.2021. Thereafter, respondent No.2 has filed execution petition under Section 128 Cr.P.C. for payment of maintenance amount due towards the petitioner from 12.11.2018 @ Rs.2,500/- per month till realization. On 15.07.2023, when the matter was fixed for the presence of the petitioner, the learned Executing Court declared the petitioner as proclaimed offender and directed the SHO concerned to register an FIR against him under Section 174-A of IPC, and thus, the present case was registered.

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Learned counsel appearing for the petitioner submits that the impugned order is liable to be set aside on the ground that the mandate of Section 82 Cr.P.C. has not been followed in its letter and spirit by the trial Court. It is further submitted that in the eventuality of non-appearance of the petitioner, the Court ought to have issued warrants to secure his presence and thereafter, issued the proclamation by recording reasons on the basis of which it believed that the person against whom the warrant issued, has absconded or concealed himself to avoid execution of warrant. However, in the present case, without making an attempt to secure presence of the petitioner by issuing warrants, the petitioner was declared a proclaimed offender and an FIR under Section 174-A of IPC was lodged against him.

He further submits that the main dispute which between the parties was under Section 128 Cr.P.C., out of which, proceedings under Section 174-A of IPC have been emerged, had already been concluded vide order dated 17.10.2023 (Annexure P-4) passed by the learned Chief Judicial Magistrate, Nuh, as the matter had been compromised between the parties. Compromise deed is annexed with the present petition as Annexure P-2.

He further submits that once the original proceedings have come to an end with the compromise between the parties, therefore, the present proceedings under Section 174-A of IPC arising out of the original proceedings should also come to an end.

Notice of motion.

Mr. Vikas Bhardwaj, AAG, Haryana and Mr. Saurav Kumar Manchanda, Advocate, put in appearance and Mr. Manchanda also files his vakalatnama, which is taken on record. The learned counsel accept notice for

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respondent No.1-State and respondent No.2, respectively.

Learned State counsel assisted by counsel for respondent No.2 has not disputed the fact that the matter has been compromised between the parties.

A Coordinate Bench of this Court in **Vikas Gupta vs. State of Haryana and others**, while quashing the FIR under Section 174-A of the IPC in **CRM-M-19636-2018** decided on 01.08.2018 has observed the following:-

“The ultimate aim, objective and goal of a legal system is to reconcile the social conflicts. Law is required only to ensure that people do not have to fight with each other just to protect their right to property, right to life and liberty and other rights secured to them by the legal system. The civil disputes are the conflicts between two parties, having lesser overtones for the social order, social harmony or the society as such. Hence absolute freedom is given to the parties to settle their disputes by compromises, of course, coming with certain legal consequences as well. However, the criminal disputes do not necessarily restrict themselves to only two parties to the dispute in terms of their scope, consequences and effect. The criminal acts tend to cast their effect and consequences even upon the society at large. Therefore, the law prescribes punishment, severe punishments and the extreme punishments, including death penalty for criminal acts.”

A perusal of order dated 17.10.2023 passed by the learned Chief Judicial Magistrate, Nuh, makes it clear that the main complaint filed under Section 128 Cr.P.C. has been dismissed as withdrawn on the statement of respondent No.2. which is annexed with the present petition as Annexure P-5. Consequently, no fruitful purpose would be served in continuing the proceedings under Section 174-A of IPC.

Consequently, the present petition is allowed and the impugned

FIR No.0248 dated 28.07.2023 under Section 174-A of IPC registered at Police

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Station City Nuh, District Nuh (Annexure P-1) and all subsequent proceedings arising therefrom, are hereby quashed, on the basis of compromise, *qua* the petitioner only.

(HARPREET SINGH BRAR)
JUDGE

24.11.2023
Neha

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