

CRM-M No.62732 of 2023 (O&M)

2023:PHHC:159570

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CRM-M No.62732 of 2023 (O&M)
Date of Decision: 13.12.2023

KALAWATI**.....Petitioner****Vs****STATE OF HARYANA AND ANOTHER****....Respondents****CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA**

Present: Mr. Lakhwinder Singh, Advocate
for the petitioner.

HARKESH MANUJA, J. (Oral)

[1]. By way of present petition under Section 482 Cr.P.C., prayer has been made for quashing of order dated 28.09.2022 (Annexure P-6) passed by the Sub-Divisional Judicial Magistrate, Ratia, whereby the petitioner was declared as proclaimed person in the proceedings arising out of case bearing No.CHI/188/2020 titled as '*State vs. Kalawati*' followed by registration of FIR No.24 dated 29.01.2020 registered under Section 174-A IPC at Police Station City Ratia, District Fatehabad.

[2]. Briefly stating, petitioner was summoned under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter to be referred as 'the N.I. Act') in the complaint filed at the instance of the complainant. On account of non-appearance of petitioner, proceedings under Section 82 Cr.P.C. were ordered against petitioner and as a consequence thereof, she was declared as proclaimed person vide order dated 28.09.2022 followed by registration of FIR No.24 dated 29.01.2020 under Section 174-A IPC against her.

[3]. Impugning the aforementioned order dated 28.09.2022 as well as FIR No.24 dated 29.01.2020, learned counsel for the petitioner submits that due to lockdown in the State and wrong date noted by counsel for the petitioner, she could not appear before the Trial Court. He further points out that later, a settlement came to be arrived at between the parties as petitioner discharged her liability by paying the entire cheque amount in favour of complainant and in pursuance thereof, the complaint under Section 138/142 of the N.I. Act, was withdrawn by complainant and complaint file was ordered to be consigned to record room, vide order dated 02.07.2022 passed by the Judicial Magistrate First Class, Ratia.

[4]. Learned counsel further submits that once the main proceedings under Section 138 of the N.I. Act have already come to an end, no useful purpose is going to be served by continuing with the proceedings arising out of the FIR in question. In support, he relies upon judgments of this Court, passed in **CRM-M No.16449 of 2018** titled as **“Satish Kumar vs. State of Haryana and another”** and **CRM-M No.30911 of 2021**, titled as **“Ram Kumar Rana vs. State of Haryana and another”**.

[5]. Notice of motion to respondent No.1/State only. No notice is required to be issued to respondent No.2 as she is left with no grievance, thereby no prejudice caused to her. The matter is now between the Court and the petitioner only.

[6]. On asking of the Court, Mr. Krishan K. Chahal, Addl. A.G., Haryana accepts notice on behalf of respondent No.1. Learned counsel opposes the prayer made on behalf of petitioner while submitting that she was having knowledge of pendency of proceedings under Section 138 of the N.I. Act as well as summoning

order, but she deliberately chose not to appear before the Trial Court resulting into her declaration as proclaimed person followed by registration of FIR against her.

[7]. I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the petitioner.

[8]. Once, the complaint under Section 138 of the 1881 Act, already stands withdrawn by complainant on having received the entire cheque amount in dispute, no useful purpose is going to be served by carrying on with the proceedings arising out of the present FIR. Even otherwise, the case of petitioner is fully covered with the judgments passed by this Court in Satish Kumar and Ram Kumar Rana's cases (supra). Moreover, the petitioner has already been admitted to bail vide order dated 10.07.2020 passed by the Trial Court.

[9]. In view of discussion made hereinabove, the present petition is allowed. Consequently, the impugned order dated 28.09.2022 passed by the Sub-Divisional Judicial Magistrate, Ratia declaring petitioner as proclaimed person is set aside. The FIR No.24 dated 29.01.2020 registered under Section 174-A IPC at Police Station City Ratia, District Fatehabad along with all consequential proceedings arising therefrom is also quashed.

December 13, 2023

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(HARKESH MANUJA)

JUDGE

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No