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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-7101 of 2024
Date of Decision: 09.02.2024

MAYANK JOSHI

... Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

... Respondents

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

Present:- Mr. Piyush Setia, Advocate,
for the petitioner.

Mr. Sarabjit Singh Cheema, DAG, Punjab.

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 FIR No. 192 dated 07.07.2022 (Annexure P-1) registered under Section 174-A IPC, Police Station City-1 Abohar, District Fazilka and all consequential proceedings arising therefrom and for staying further proceedings in case CHI No. 390-2023, titled as State V. Mayank Joshi.

2. In *nutshell*, the brief facts of the case are that complainant Pradeep Periwal filed two criminal complaints against the petitioner under Section 138 of the Negotiable Instrument Act, bearing Nos. NACT-1172-2019 & NACT-1173-2019 titled as *Pradeep Periwal vs. Mayank Joshi*.

Petitioner was unaware about the Court proceeding, as such he could not appear before the Court leading to be declared as proclaimed person vide orders dated 26.11.2021 (Annexure P-2 and P-3) and FIR No. 0192 dated 07.07.2022 under Section 174-A IPC Police Station City-1 Abohar, District Fazlika (Annexure P-1) is registered against the petitioner.

3. It is, *inter alia* contended by learned counsel for the petitioner that petitioner never received any summon/warrant and therefore, he could not appear before the concerned Court. However, on knowing of the same petitioner surrendered before the trial Court on 17.11.2023 and was released on bail. Complainant has also appeared on 17.11.2023 and made statement that a compromise has been effected between the parties and he has received the cheque amount and nothing is due towards the petitioner. He submits the complaints were adjourned and vide order dated 17.11.2023 (Annexure P-6) complaints were dismissed as withdrawn. He submits that since the complaints in question have been withdrawn vide order dated 17.11.2023 (Annexure P-4 and P-5) the impugned order stands culminated and continuation of the instant FIR on the basis of impugned order would be the abuse of process of law. 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 No. 192 dated 07.07.2022 (Annexure P-1) under Section 174-A IPC be quashed and consequential proceedings arising therefrom be also set aside.

4. The learned State counsel has admitted the factum of compromise and withdrawal of complaint under Section 138 of the Negotiable Instrument Act, against the petitioner vide order dated 17.11.2023 (Annexure P-4 & P-5).

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

6. 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 orders dated 26.11.2021 (Annexure P-2 and P-3) in the said complaint and on the basis thereof, the impugned FIR No.192 dated 07.07.2022 (Annexure P-1) was registered against him. It is not disputed that the aforesaid complaints have since been withdrawn by the complainant vide order dated 17.11.2023 (Annexure P-4 & P-5) 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 has 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.

7. 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 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.

8. Consequently, keeping in view the above said facts and circumstances, the present petition is allowed, impugned orders dated 26.11.2021 passed in Criminal Complaint Nos. NACT-1172 of 2019 and NACT-1173 of 2019 (Annexure P-2 & P-3) declaring the petitioner as proclaimed person and FIR No.192 dated 07.07.2022 (Annexure P-1) registered under Section 174-A at Police Station City-1 Abohar, District Fazilka and all consequential proceedings arising therefrom are hereby set aside.

9. Petition stands allowed.

(SANJIV BERRY)
JUDGE

09.02.2024

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