

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-12105-2024

Date of Decision: 7.3.2024

Usha and another

....Petitioners

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

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

Mr. Neeraj Sheoran, DAG, Haryana

KARAMJIT SINGH, J. (Oral)

Present petition has been filed under Section 482 of Cr.P.C. for setting aside impugned order dated 18.11.2022 (Annexure P-2) whereby the petitioners were declared as proclaimed persons in criminal complaint NACT/2004/2018 titled HDFC Bank v. Usha and another by the Court of Judicial Magistrate, 1st Class, Hisar and for quashing of FIR No.005 dated 4.1.2023 registered under Section 174-A IPC at Police Station Urban Estate, Hisar (Annexure P-1) and all the subsequent proceedings arising thereof.

2. Counsel for the petitioners has submitted that HDFC Bank filed afore mentioned criminal complaint under Section 138 of Negotiable Instruments Act on account of dishonour of cheque against both the petitioners who are husband and wife. It is further submitted that in the said proceedings under Section 138 of Negotiable Instruments Act, the petitioners were declared proclaimed persons vide order Annexure P-2 and the Court concerned also gave directions to the Local Police to register FIR

and consequently, impugned FIR (Annexure P-1) was registered against both the petitioners under Section 174-A IPC. It is further submitted that in the meantime, the petitioners effected compromise with HDFC Bank and on the basis of the said compromise, the aforesaid criminal complaint filed under Section 138 of Negotiable Instruments Act was dismissed as withdrawn vide order dated 26.10.2023 (Annexure P-17).

3. Counsel for the petitioners further submits that once proceedings under Section 138 of Negotiable Instruments Act have been withdrawn, then continuation of the proceedings under Section 82 of Cr.P.C. and consequent FIR (Annexure P-1) would be abuse of the process of Court.

4. State counsel, on the other hand, has opposed the present petition and submits that no ground is made out to quash impugned order dated 18.11.2022 (Annexure P-2) and FIR (Annexure P-1).

5. I have considered the submissions made by the counsel for the parties.

6. Undoubtedly, impugned order dated 18.11.2022 (Annexure P-2) and FIR (Annexure P-1) are offshoot of proceedings under Section 138 of Negotiable Instruments Act which were initiated at the instance of HDFC Bank. Order (Annexure P-17) was got verified from the record available on the official site of District Judiciary, Hisar. From the perusal of Annexure P-17, it is evident that the proceedings under Section 138 of Negotiable Instruments Act are already terminated as the complaint in question was dismissed as withdrawn by HDFC Bank as the parties entered into compromise.

7. In view of the matter since the main complaint filed under

Section 138 of Negotiable Instruments Act stands withdrawn, the matter being compromised between the parties, therefore, continuation of the order dated 18.11.2022 (Annexure P-2) and FIR (Annexure P-1) would be nothing but an abuse of the process of law.

8. In light of above, the present petition is allowed and impugned order dated 18.11.2022 (Annexure P-2) and FIR No.0005 dated 4.1.2023 registered under Section 174-A IPC at PS Urban Estate, Hisar (Annexure P-1) are quashed qua the petitioners.

(KARAMJIT SINGH)
JUDGE

March 7, 2024
Paritosh Kumar

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