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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-13828 of 2024

Date of Decision: 18.03.2024

FATEH CHAND

... Petitioner

Versus

SATYAWAN AND ANOTHER

... Respondents

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

Present:- Mr. Bhavdeep Singh Mamli, Advocate
the petitioner.

Mr. Deepak Kumar, Advocate for the respondent No.1

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 the FIR No.0317 dated 30.07.2023 (Annexure P-5) registered under Section 174-A at Police Station Bhuna, District Fatehabad and order dated 14.07.2023 (Annexure P-4) passed by learned Judicial Magistrate, Ist Class, Fatehabad in Criminal Complaint No. NI/155/2020 dated 27.01.2020 (Annexure P-1) whereby petitioner was declared as proclaimed offender.

2. In *nutshell*, the brief facts of the case are that petitioner for discharge of his pre-existing liability had issued cheque amounting to ₹1,85,000/-. On presentation of cheque the same was dishonoured and the complainant filed complaint under Section 138 of the Negotiable Instrument bearing No. NI/155/2020 dated 27.01.2020 titled as “*Satyawan vs. Fateh*

Chand” against the petitioner and summons were issued and petitioner failed to appear before the Court and vide order dated 14.07.2023 (Annexure P-4) petitioner was declared as proclaimed person and case under Section 174-A IPC was registered and FIR No.0317 dated 30.07.2023 (Annexure P-5), at Police Station Bhuna, District Fatehabad was lodged against the present petitioner.

3. It is, *inter alia* contended by learned counsel for the petitioner that a compromise has been effected between the parties and complainant has withdrawn the complaint vide order dated 09.03.2024 (Annexure P-3). He submits that since the complaint in question has been withdrawn vide order dated 09.03.2024 (Annexure P-3) the impugned order dated 14.07.2023 (Annexure P-4) stands culminated and continuation of the instant FIR on the basis of impugned order would be 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 dated 30.07.2023 (Annexure P-5) under Section 174-A IPC be quashed and consequential proceedings arising

therefrom be also set aside.

4. Mr. Deepak Kumar, Advocate has put in appearance and filed Vakalatnam on behalf of the respondent No.1. The same is taken on record. He has admitted the factum of compromise and withdrawal of complaint under Section 138 of the Negotiable Instrument Act, against the petitioner vide order dated 09.03.2024 (Annexure P-3).

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 order dated 14.07.2023 (Annexure P-4) in the said complaint and on the basis thereof, the impugned FIR No.0317 dated 30.07.2023 (Annexure P-5) was registered against him. It is not disputed that the aforesaid complaint has since been withdrawn by the complainant vide order dated 09.03.2024 (Annexure P-3) 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 have 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 fact remains that the petitioner had been declared

as proclaimed person in the complaint referred to above vide order dated 14.07.2023 (Annexure P-4) and the complaint has already been dismissed as withdrawn vide order dated 09.03.2024 (Annexure P-3), meaning thereby, with the dismissal of the complaint the impugned order passed during the course of proceedings of the complaint had already stood culminated, therefore, 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 FIR No.0317 dated 30.07.2023 registered under Section 174-A IPC at Police Station Bhuna District Fatehabad and order dated 14.07.2023 (Annexure P-4) passed by learned Judicial Magistrate, Ist Class, Fatehabad in Criminal Complaint No. NI/155/2020 dated 27.01.2020 (Annexure P-1) whereby petitioner was declared as proclaimed person and all consequential proceedings arising therefrom are hereby set aside.

9. Petition stands allowed.

(SANJIV BERRY)
JUDGE

18.03.2024

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