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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.17522-2022 (O&M)
Date of decision: 21.02.2024

Rajinder Kumar

... Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Pardeep Panwar, Advocate for the petitioner.

Mr. Kiran Pal Singh, AAG., Haryana.

None for respondent No. 2, despite service.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 482 of Code of Criminal Procedure, 1973 for quashing of order dated 06.06.2019 (P-1) passed by learned Judicial Magistrate First Class, Ambala, whereby petitioner was declared as proclaimed person and further quashing of FIR No. 0030 dated 12.02.2020, under Section 174-A of Indian Penal Code, 1860 (for short ‘IPC’), registered at Police Station, Barara, District Ambala (P-2) due to non-appearance of petitioner in criminal complaint filed under Section 138 of Negotiable Instrument Act, 1881 (for short ‘the Act’).

(2) Contends that matter has been amicably settled between the parties on the basis of statement made by respondent No.2/complainant-Subhash Chand on 08.03.2022 and complaint filed under Section 138 of the Act has been withdrawn on 08.03.2022 by respondent No.2/complainant; thus, pendency of the present FIR under Section 174-A IPC would be nothing, but an abuse of process of law; hence, the same be quashed.

(3) Although notice of motion was issued way back on 13.05.2022, but despite service, no one has come forward on behalf of respondent No.2/complainant.

(4) However, learned State counsel, while opposing the prayer, submits that prayer made by petitioner may be accepted, but subject to some reasonable costs so that litigant may learn a lesson.

(5) Heard learned counsel for the parties and perused paper-book.

(6) Paper-book reveals that Complaint Case i.e. CIS No.COMA//1767/2016 titled as 'Subhash Chand Vs. Rajinder Kumar' was filed under Section 138 of the Act filed against the petitioner for dishonour of cheque for an amount of Rs.50,000/-. It is acknowledged by both sides that matter has been amicably settled between the parties and aforesaid complaint was dismissed as withdrawn vide order dated 08.03.2022 passed by learned JMIC. For reference, the order reads as under:-

“Accused Rajinder produced before me in custody. Complainant appeared before the Court and made statement that the matter between him and accused has been compromised today by way of Daily Lok Adalat and he has no objection if the accused Rajinder is released from custody and further stated that he does not wish to pursue the present complaint and wants to withdraw the same. Complainant is duly identified by his counsel. Heard. Keeping in view the statement made, the complainant is permitted to withdraw the present complaint. Accordingly, the present complaint is hereby dismissed as withdrawn being compromised in Daily Lok Adalat. Since, the matter between the complainant and accused has already been compromised in Daily Lok Adalat and the complainant has withdrawn the present complaint, therefore, accused Rajinder be released from custody in the present case forthwith. File be consigned to the record room after due compliance.”

(7) Perusal of the aforesaid order reveals that statement of respondent No.2/complainant has been recorded. Since main case has already been dismissed as withdrawn on 08.03.2022; therefore, pendency of the criminal

proceedings arising out of aforesaid FIR would not serve any purpose; rather, it shall consume valuable judicial time, which can be utilized for a better cause.

(8) In view of the above, present petition is **allowed**; aforesaid FIR FIR No.0030 dated 12.02.2020 under Section 174-A IPC, registered at Police Station, Barara, District Ambala along with all consequential proceedings resulting therefrom are quashed qua the petitioner. However, as a deterrence for the future, petitioner will suffer costs of Rs.5,000/- (Rupees Five Thousand only) to be deposited with Punjab and Haryana High Court Employees’ Welfare Association, A/C No.37167209613, IFSC Code:SBIN0050306 maintained with State Bank of India, High Court Branch, Chandigarh, within two weeks from the date of receipt of certified copy of this order. In case, there is a failure, the same be recovered as arrears of land revenue and report be submitted to the Registry.

(9) Pending application(s), if any, shall also stand disposed off.

21.02.2024
Harish Kumar

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No