

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

119

CRM-M-14589-2024 (O&M)
Date of Decision: 09.04.2024

JASBIR SINGH
Vs
STATE OF HARYANA
.....Petitioner(s)
....Respondent(s)

CORAM: *HON'BLE MR. JUSTICE HARKESH MANUJA*

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

HARKESH MANUJA, J. (Oral)

CRM-14996-2024

For the reasons mentioned in the application, the same is allowed.
Accompanying documents i.e. Annexure P-3 to Annexure P-6 are ordered to be
taken on record, subject to all just exceptions.

CRM-M-14589-2024 (O&M)

[1]. By way of present petition filed under Section 482 Cr.P.C., prayer has
been made for quashing of FIR No.326 dated 30.08.2022 registered under Section
174-A, IPC at Police Station Nissing, District Karnal along with consequential
proceedings arising out of the said FIR.

[2]. The FIR in question was registered against the petitioner in terms of
order dated 17.09.2019 passed by the Judicial Magistrate Ist Class, Karnal,
whereby he was declared as a proclaimed person in a complaint filed under Section
138 of the Negotiable Instruments Act, 1881 (hereinafter to be referred as ‘N.I.
Act’) against him.

[3]. Briefly stating, being implicated in the complaint under Section 138
of the aforesaid N.I. Act bearing No.1578/18, petitioner was summoned therein; on
account of his non-appearance, he was declared as proclaimed person vide order

dated 17.09.2019 followed by registration of FIR under Section 174-A IPC against him.

[4]. Impugning the aforesaid, learned counsel for the petitioner submits that parties to the complaint under Section 138 of the N.I. Act, have entered into a settlement upon payment of dues at the instance of petitioner and the complaint now stands withdrawn vide order dated 05.07.2023 passed by the Judicial Magistrate Ist Class, Karnal (Annexure P-2).

[5]. Learned counsel further submits that the FIR in hand was not maintainable against the petitioner as no complaint in terms of Section 195 Cr.P.C. was ever moved at the instance of concerned police official before the Trial Court for registration of FIR.

[6]. Notice of motion.

[7]. Upon advance notice, Mr. Chetan Sharma, D.A.G., Haryana accepts notice on behalf of the respondent/State and vehemently opposes the prayer made on behalf of the petitioner while submitting that having failed to appear in pursuance of summoning order, petitioner was rightly declared as proclaimed person followed by registration of FIR against him and, thus the impugned FIR warrants no interference.

[8]. I have heard learned counsel for the parties and gone through the paper book.

[9]. Perusal of record shows that the FIR in question was registered merely in terms of order dated 17.09.2019 without there being any complaint filed under Section 195 Cr.P.C. by the authority concerned and, thus the same is not maintainable in accordance with law laid down by this Court in **CRM-M No.41656 of 2023** titled '**Pardeep Kumar vs. State of Punjab and another**'. The relevant portion whereof is reproduced hereunder:-

“Once the Court decides to proceed against the petitioner for an offence under Section 174-A of the IPC, it is imperative to institute a formal written complaint in the competent jurisdictional court. This imperative arises from the prevailing provision of Section 195 of the Code of Criminal Procedure, which mandates that no Court shall take cognizance of any offence punishable under Sections 172 to 188 (both inclusive) of the Indian Penal Code except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate.”

[10]. Moreover, the complaint filed under Section 138 of the N.I. Act bearing No.NIA ACT 1578/18, wherein the petitioner was declared as proclaimed offender already stands withdrawn in terms of liability been discharged vide order dated 05.07.2023 (Annexure P-2).

[11]. Furthermore, the petitioner even submitted himself to the jurisdiction of the Court concerned wherein the trial in the aforementioned FIR was going on and he was granted concession of regular bail vide order dated 12.09.2022 (Annexure P-6).

[12]. In view of cumulative analysis of the aforesaid discussion, the present petition is allowed and the FIR No.326 dated 30.08.2022 registered under Section 174-A, IPC at Police Station Nissing, District Karnal along with consequential proceedings arising out of the said FIR is hereby quashed *qua* the petitioner.

[13]. The aforesaid order, however would be subject to deposit of cost(s) of Rs.5000/- by the petitioner with the District Legal Services Authority, Karnal within a period of 10 days from the receipt of certified copy of this order.

April 09, 2024

Atik

(HARKESH MANUJA)
JUDGE

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