

145

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-16846 of 2024

Date of Decision: 08.04.2024

SUBHASH CHANDER

... Petitioner

Versus

STATE OF HARYANA

... Respondent

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

Present:- Mr. Anand Kumar Maurya, Advocate for
Mr. Amit Kashyap, Advocate for the petitioner.
Mr. Surender Singh, AAG, Haryana.

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 order dated 05.01.2023 (Annexure P-2) passed by learned Judicial Magistrate First Class, District Sirsa in Complaint bearing No. NACT-486-2022 under Section 138 of the Negotiable Instrument Act whereby petitioner was declared proclaimed person as well as FIR No. 0090 dated 20.01.2023 under Section 174-A IPC, Police Station Civil Line Sirsa, District Sirsa (Annexure P-1) and all subsequent proceedings arising therefrom.

2. In *nutshell*, the brief facts of the case are that petitioner had taken loan from HDFC Bank and on account of default of EMI's, the complainant Bank filed complaint under Section 138 of the Negotiable

Instrument bearing No. NACT/486/2022 dated 21.03.2022 titled as “*H.D.F.C Bank vs. Subhash Chander*” against the petitioner and summons were issued and petitioner failed to appear before the Court and vide order dated 05.01.2023 (Annexure P-2) petitioner was declared as proclaimed person and FIR No.0090 dated 20.01.2023 under Section 174-A IPC was registered, at Police Station Civil Line Sirsa, District Sirsa against the present petitioner.

3. It is, *inter alia* contended by learned counsel for the petitioner that the petitioner has deposited all the outstanding dues and the complainant Bank has suffered statement that petitioner has deposited all the cheque amount and the Bank does not want to continue with the complaint, accordingly vide order dated 06.02.2024 the complaint has been dismissed as withdrawn (Annexure P-3). He submits that since the complaint in question has been withdrawn vide order dated 06.02.2024 (Annexure P-3) the impugned order dated 05.01.2023 (Annexure P-2) stands culminated and continuation of the instant FIR on the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 No.0090 dated 20.01.2023 (Annexure P-1) under Section 174-A IPC be quashed and consequential proceedings arising therefrom be also set aside.

4. Learned State counsel has not disputed the factual matrix of the case and admitted the withdrawal of complaint under Section 138 of the Negotiable Instrument Act, against the petitioner vide order dated 06.02.2024 (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 05.01.2023 (Annexure P-2) in the said complaint and on the basis thereof, the impugned FIR No.0090 dated 20.01.2023 (Annexure P-1) was registered against him. It is not disputed that the aforesaid complaint has since been withdrawn by the complainant vide order dated 06.02.2024 (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 05.01.2023 (Annexure P-2) and the complaint has already been dismissed as withdrawn vide order dated 06.02.2024 (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.0090 dated 20.01.2023 (Annexure P-1) registered under Section 174-A IPC at Police Station Civil Lines, Sirsa and order dated 05.01.2023 (Annexure P-2) passed by learned Judicial Magistrate, Ist Class, Sirsa in Criminal Complaint NACT-486-2022 dated 21.03.2022 whereby petitioner was declared as proclaimed person and all consequential proceedings arising therefrom are hereby set aside.

9. Petition stands allowed.

(SANJIV BERRY)
JUDGE

08.04.2024

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