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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-18380 of 2024 (O&M)
Date of Decision: 08.05.2024

VINOD KUMAR DUDI

... Petitioner

Versus

STATE OF HARYANA

... Respondent

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

Present:- Mr. Mohit Kakkar, Advocate for the petitioner.
Ms. Gaganpreet Kaur, DAG, Haryana.

SANJIV BERRY, J. (ORAL)

CRM-18303-2024

1. The instant application is preferred under Section 482 Cr.P.C for placing on record proclamation proceedings as Annexure P-6.
2. Heard.
3. Application is allowed. Proclamation proceedings as (Annexure P-6) is taken on record, subject to all just exceptions.
4. Disposed of.

Main case

1. 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. 32 dated 06.01.2023, under Section 174-A IPC, at Police Station Civil Line Sirsa, District Sirsa, Haryana (Annexure P-1) registered vide



order dated 15.12.2022 passed by the learned Judicial Magistrate First Class, Sirsa in complaint bearing No. NACT No. 124 of 2022 dated 18.01.2022 titled as "*Shri Ram Feeds vs. Vinod Kumar* under Section 138 of the Negotiable Instrument Act and order dated 19.11.2022 vide which the petitioner was declared as proclaimed person, and all subsequent proceedings arising therefrom.

2. In *nutshell*, the brief facts of the case are that petitioner is a poultry farmer and used to purchase feed etc. from Sunil Khod Prop. Of Shri Ram Feeds, 28th Mile Stone, Sirsa Ellnabad Road, Village Bhuratwala Tehsil Ellnabad, District Sirsa on credit basis and issued cheque. The said cheque was presented and the same was returned with remarks funds insufficient as such a complaint under Section 138 of the Negotiable Instrument Act, bearing *No. NACT No. 124 of 2022 dated 18.01.2022 titled as "Shri Ram Feeds vs. Vinod Kumar* was filed against the petitioner and summons were issued and petitioner failed to appear before the Court and vide order dated 19.11.2022 petitioner was declared as proclaimed person and FIR No. 32 dated 06.01.2023, under Section 174-A IPC, at Police Station Civil Line Sirsa, District, Sirsa Haryana (Annexure P-1) was registered against the present petitioner.

3. It is, *inter alia* contended by learned counsel for the petitioner that the petitioner had paid all the outstanding dues and the complainant has suffered statement on 02.04.2024 (Annexure P-4) that petitioner had paid the entire cheque amount alongwith compensation and he does not want to continue with the complaint, accordingly vide order dated 02.04.2024 (Annexure P-5) the complaint has been dismissed as withdrawn. He submits



that since the complaint in question has been withdrawn vide order dated 02.04.2024 (Annexure P-5) the impugned order dated 15.12.2022 stands culminated and continuation of the instant FIR (Annexure P-1) 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 (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 02.04.2024 (Annexure P-5).

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 19.11.2022 in the said complaint and on the basis thereof, vide order dated 15.12.2022 the impugned FIR No.32 dated 06.01.2023 (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 02.04.2024 (Annexure P-5) 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 19.11.2022 and the complaint has already been dismissed as withdrawn vide order dated 02.04.2024 (Annexure P-5), 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.32 dated 06.01.2023 (Annexure P-1) registered under Section 174-A IPC at Police Station Civil Line Sirsa, District Sirsa, Haryana and order dated 19.11.2022 passed by learned Judicial Magistrate, Ist Class, Sirsa in Criminal Complaint NACT-124-2022 dated 18.01.2022 whereby petitioner was declared as proclaimed person and all consequential proceedings arising therefrom are hereby set aside.

9. Petition stands allowed.

(SANJIV BERRY)
JUDGE

08.05.2024
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| i) | Whether speaking/reasoned? | Yes |
| ii) | Whether reportable? | Yes |