

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.20351 of 2024
Date of Decision: 26.04.2024

SATYENDRA SINGH TOMAR AND ANR
.....Petitioners

Vs

STATE OF HARYANA
....Respondent

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

Present: Mr. Kamal Kapoor, Advocate
for the petitioners.

HARKESH MANUJA, J. (Oral)

[1]. By way of present petition filed under Section 482 Cr.P.C., prayer has been made for quashing of FIR No.1463 dated 14.12.2022 (Annexure P-3) registered under Section 174-A IPC at Police Station Hisar Sadar, District Hisar and order dated 01.12.2022 (Annexure P-2) passed by the Judicial Magistrate Ist Class, Hisar, whereby the petitioners were declared as proclaimed persons.

[2]. Briefly stating, petitioners were summoned under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter to be referred as ‘the N.I. Act’) in the complaint filed at the instance of the complainant. On account of non-appearance of petitioners, proceedings under Section 82 Cr.P.C. were ordered against them and as a consequence thereof, they were declared as proclaimed persons vide order dated 01.12.2022 passed by the Judicial Magistrate Ist Class, followed by registration of FIR No.1463 dated 14.12.2022 under Section 174-A IPC against him.

[3]. Impugning the aforementioned order dated 01.12.2022 as well as FIR No.1463 dated 14.12.2022, learned counsel for the petitioners submits that the complainant had mentioned wrong address of the petitioners, therefore, the summons could not served upon them and ultimately the proclamation under Section 82(1) Cr.P.C. was issued against them. He further points out that later, a settlement came to be arrived at between the parties as petitioners discharged their liability by paying the entire cheque amount in favour of complainant and in pursuance thereof, the complaint under Section 138 of the N.I. Act, was withdrawn by complainant and complaint file was ordered to be consigned to record room, vide order dated 08.11.2023 passed by the Judicial Magistrate Ist Class, Hisar. Learned counsel for the petitioner also volunteers to provide one wheelchair to the Govt. Civil Hospital, Hisar so as further the public cause.

[4]. Learned counsel further submits that once the main proceedings under Section 138 of the N.I. Act Act have already come to an end, no useful purpose is going to be served by continuing with the proceedings arising out of the FIR in question. In support, he relies upon judgments of this Court, passed in **CRM-M No.16449 of 2018** titled as **“Satish Kumar vs. State of Haryana and another”** and **CRM-M No.30911 of 2021**, titled as **“Ram Kumar Rana vs. State of Haryana and another”**.

[5]. Notice of motion.

[5]. Upon advance notice, Mr. Chetan Sharma, D.A.G., Haryana appears on behalf of the respondent/State. He opposes the prayer made on behalf of petitioners while submitting that they were having knowledge of pendency of proceedings under Section 138 of the N.I. Act as well as summoning order, but

they deliberately chose not to appear before the Trial Court resulting into their declaration as proclaimed persons followed by registration of FIR against them.

[6]. I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the petitioners.

[7]. Once, the complaint under Section 138 of the 1881 Act, already stands withdrawn by complainant on having received the entire cheque amount in dispute, no useful purpose is going to be served by carrying on with the proceedings arising out of the present FIR. Even otherwise, the case of petitioners is fully covered with the judgments passed by this Court in Satish Kumar and Ram Kumar Rana's cases (supra).

[8]. In view of discussion made hereinabove, the present petition is allowed, subject to providing one Wheelchair to the Govt. Civil Hospital, Hisar, within a period of two weeks from today as volunteered by the petitioners against due receipt issued by the concerned Civil Surgeon. A copy of the receipt shall also placed before the concerned Trial Court. Consequently, the order dated 01.12.2022 passed by the Judicial Magistrate Ist Class, Hisar declaring petitioners as proclaimed persons is set aside. The FIR No.1463 dated 14.12.2022 registered under Section 174-A IPC at Police Station Hisar Sadar, District Hisar along with all consequential proceedings arising therefrom is also quashed.

April 26, 2024
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(HARKESH MANUJA)
JUDGE

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