



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

147

CRM-M-22629-2024

Date of decision: 06.05.2024

Shibu

.....Petitioner

Versus

The State of Haryana and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Rahul Vats, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

1. The instant petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.378 dated 13.09.2023 under Section 174-A of the IPC registered at Police Station Sector 7, Panchkula, District Panchkula (Annexure P-1) arising out of Criminal Complaint case i.e. NACT-1005/2018 titled as 'Ajay Gakhar Vs. Shibu and another' under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the NI Act') wherein the petitioner was declared proclaimed person vide order dated 19.08.2023 (Annexure P-12), in view of the complaint in question having been dismissed as withdrawn vide order dated 09.12.2023 (Annexure P-16).

2. Learned counsel for the petitioner has primarily prayed for setting aside of the impugned order on the ground that he was never served either with the summons or warrants issued by the Trial Court in the complaint instituted under Section 138 of the NI Act. Learned

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counsel, therefore, submits that absence of the petitioner was thus, not intentional as he was unaware about the pendency of the complaint instituted against him under Section 138 of the NI Act and still further, even the proclamation was never served upon him as per the provisions of Section 82 Cr.P.C. Learned counsel has vehemently contended that as soon as the petitioner learnt about the pendency of the complaint in question, he immediately made the payment of the cheque amount to the complainant and compromised the matter with him. Resultantly, the complaint instituted under Section 138 of the NI Act by the complainant, was withdrawn by him on 09.12.2023. In support, he has drawn the attention of this Court to Annexure P-16 wherein it stands reflected that the matter stood amicably settled between the parties and the complaint stood withdrawn. A prayer therefore, has been made that in the aforementioned facts and circumstances, no purpose would be served by prosecuting the petitioner under Section 174-A IPC, more so, when he was not involved in any other criminal case much less under Section 138 of the NI Act nor had he been declared a proclaimed person prior thereto in any other case.

3. Notice of motion.

4. On asking of the Court, Ms. Trishanjali Sharma, DAG, Haryana accepts notice on behalf of respondent No.1-State.

5. Learned State counsel has opposed the prayer made by the counsel opposite and contended that it was evident that the petitioner had intentionally not appeared during the proceedings before the Court

below and hence, the prayer of the petitioner deserved to be declined.



6. Heard learned counsel for the parties and perused the relevant material on record.

7. The petitioner was declared a proclaimed person vide impugned order in a complaint case under Section 138 of the NI Act. Admittedly, the said complaint was withdrawn after the parties arrived at a compromise. Furthermore, the petitioner is neither involved in any other criminal case nor was he declared a proclaimed person any time prior thereto. Hence, the continuation of criminal proceedings under Section 174-A IPC would serve no useful purpose.

8. Accordingly, the present petition is allowed and the order dated 19.08.2023 declaring the petitioner as proclaimed person as well as FIR registered under Section 174-A IPC and consequential proceedings arising therefrom are set aside.

06.05.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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