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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-23081-2024

Date of Decision: 09.05.2024

VIJAY NARAYAN KATAREY

... Petitioner

Versus

STATE OF HARYANA & ANOTHER

... Respondents

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

Present:- Mr. Tejinder Pal Singh, Advocate for the petitioner.

Ms. Gaganpreet Kaur, DAG, 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 FIR No. 719 dated 13.09.2022, under Section 174-A IPC, at Police Station Karnal Civil Lines, District Karnal, Haryana (Annexure P-5) and all subsequent proceedings arising out of complaint bearing No. CIS No. NACT-3629-2020 titled as "*Sahib Pesticides Vs. Katare Krish Sewa*" instituted by respondent No.2 on 21.12.2020 (Annexure P-1) under Section 138 of the Negotiable Instrument Act in the Court of learned Judicial Magistrate First Class, Karnal wherein the petitioner was declared as proclaimed person vide order dated 30.08.2022 (Annexure P-4).

2. In *nutshell*, the brief facts of the case are that the petitioner purchased products such as agrochemicals, pesticides, insecticides etc from



respondent No.2-complainant and an amount of ₹4,15,722/- is outstanding against the petitioner. In discharge of his liability petitioner issued cheque and on presentation the same was dishonored with remarks “funds insufficient” as such a complaint under Section 138 of the Negotiable Instrument Act, bearing No. CIS No. NACT-3629-2020 titled as “*Sahib Pesticides Vs. Katara Krish Sewa*” dated 21.12.2020 (Annexure P-1) was filed against the petitioner and summons were issued and petitioner failed to appear before the Court and vide order dated 30.08.2022 (Annexure P-4) petitioner was declared as proclaimed person and FIR No.0719 dated 13.09.2022, under Section 174-A IPC, at Police Station Civil Lines Karnal, District Karnal Haryana (Annexure P-5) 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 07.02.2024 (Annexure P-7) that the matter has been amicably settled and he does not want to continue with the complaint, accordingly vide order dated 07.02.2024 (Annexure P-8) the complaint has been dismissed as withdrawn. He submits that petitioner has appeared in trial and was admitted on bail, the order dated 30.08.2022 (Annexure P-4) declaring petitioner as proclaimed person is no more remained in existence. He further submits that since the complaint in question has also been withdrawn vide order dated 07.02.2024 (Annexure P-8) the impugned order dated 30.08.2022 (Annexure P-4) stands culminated and continuation of the instant FIR (Annexure P-5) 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 impugned order dated 30.08.2022 (Annexure P-4) and the FIR No.719 dated 13.09.2022 (Annexure P-5) 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 07.02.2024 (Annexure P-8).

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 30.08.2022 (Annexure P-4) in the said complaint and on the basis thereof, the impugned FIR No.719 dated 13.09.2022 (Annexure P-5) was registered against him. It is not disputed that the aforesaid complaint has since been withdrawn by the



complainant vide order dated 07.02.2024 (Annexure P-8) on the basis of amicable settlement between the parties. It is also not disputed that once the petitioner had appeared in Court and admitted to bail the order declaring the petitioner as proclaimed person is no more remained in existence. 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 30.08.2022 (Annexure P-4) and the complaint has already been dismissed as withdrawn vide order dated 07.02.2024 (Annexure P-8), 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 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.719 dated 13.09.2022 (Annexure P-5) registered under Section 174-A IPC at Police



Station Civil Lines Karnal, District Karnal, Haryana and order dated 30.08.2022 (Annexure P-4) passed by learned Judicial Magistrate, Ist Class, Sirsa in Criminal Complaint NACT-3629-2020 dated 21.12.2020 (Annexure P-1) whereby petitioner was declared as proclaimed person and all consequential proceedings arising therefrom are hereby set aside.

9. Petition stands allowed.

(SANJIV BERRY)
JUDGE

09.05.2024

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