

2024 FHHC:072003



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

276

CRM-M No.24603 of 2023 (O&M)**Date of Decision: 21.05.2024****HANUMANT RAJARAM GAWDE AND ANR.Petitioners****Vs****STATE OF UT CHANDIGARH AND ANRRespondents****CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA**

Present: Mr. A.S. Nirmaan, Advocate
for the petitioners.

Mr. Rajeev Anand, Addl. P.P., UT, Chandigarh.

Mr. IPS Bains, Advocate
for respondent No.2.

HARKESH MANUJA, J. (Oral)

[1]. By way of present petition filed under Section 482 Cr.P.C., prayer has been made for quashing of complaint case No.NACT 6248 of 2020 as well as orders dated 04.11.2022 and 01.02.2023 passed by the Judicial Magistrate Ist Class, Chandigarh, whereby petitioner No.1 was declared as proclaimed person followed by issuance of direction for registration of FIR under Section 174-A IPC against him.

[2]. In the present case, on account of business transactions between the petitioners and the private respondent No.2, total 10 cheques were issued at the instance of petitioners in favour of respondent No.2 against liability of Rs.4 lakhs; out of which 08 cheques were dishonoured, resulting into filing of six complaints

2024 FHHC:072003



under Section 138 of Negotiable Instruments Act at the instance of respondent No.2. The complaint in hand also forms part of aforementioned six complaints.

[3]. In the aforementioned complaints, petitioner No.1 was summoned vide order dated 08.04.2021, but on account of his non-appearance before the Trial Court, issuance of proclamation under Section 82 Cr.P.C., was ordered against him on 29.07.2022 followed by his declaration as that of proclaimed person vide order dated 04.11.2022, besides issuance of direction by the Trial Court for registration of FIR under Section 174-A IPC vide order dated 01.02.2023.

[4]. Impugning the aforementioned complaint and orders, learned counsel for the petitioners submits that the parties have now settled their dispute and the petitioners in lieu of their liability against respondent No.2 have already returned a sum of Rs.4 lakhs during proceedings before this Court, which is even recorded in the order dated 10.05.2024 and balance sum of Rs.1 lakh by way of two demand draft Nos.036089 and 036090 dated 15.05.2024 has been given to learned counsel representing respondent No.2. In this way, a total sum of Rs.5 lakhs has been returned by the petitioners to respondent No.2.

[5]. In view of aforesaid facts, learned counsel for the petitioners further submits that no useful purpose would be served either by continuing with the proceedings arising out of the complaint as the matter having been settled between the parties, even a direction as regards registration of FIR under Section 174-A IPC against the petitioners would turn to be a futile exercise.

[6]. Learned counsel representing respondent No.2 admits the factum of discharge of liability by the petitioners against payment of Rs.5 lakhs to respondent

2024 FHHC:072003



No.2 and rather supports the cause of petitioners as regards quashing of the complaint, summoning order as well as subsequent proceedings carried vide order dated 04.11.2022 and 01.02.2023.

[7]. On the contrary, learned Addl. Public Prosecutor for UT, Chandigarh opposes the prayer made on behalf of the petitioners while submitting that the petitioner No.1 despite having complete knowledge about the pendency of proceedings, chose not to submit himself before the Trial Court, thereby resulting into his declaration as that of proclaimed person and, thus the proceedings at the Trial Court in relation to registration of FIR under Section 174-A IPC warrants no interference.

[8]. 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 petitioner.

[7]. Perusal of record shows that against the outstanding liability of Rs.4 lakhs towards respondent No.2, the petitioners have already discharged their liability after payment of sum of Rs.5 lakhs to respondent No.2. Moreover, having received the entire amount, learned counsel representing respondent No.2 has also supported the cause of petitioners and raises no objection as regards quashing of the complaint, summoning order as well as subsequent proceedings carried vide order dated 04.11.2022 and 01.02.2023. Once, the petitioners have discharged their liability by paying the entire cheque amount and the complainant also does not deny the factum of receiving the entire cheque amount in dispute, no useful purpose is going to be served by carrying on with the proceedings arising out of the complaint.

2024 FHHC:072003



[8]. In view of the discussion made hereinabove, the present petition is allowed and complaint case No.NACT 6248 of 2020 as well as orders dated 04.11.2022 and 01.02.2023 passed by the Judicial Magistrate Ist Class, Chandigarh declaring petitioner as proclaimed person followed by registration of FIR under Section 174-A IPC along with all consequential proceedings arising therefrom are set aside.

[9]. Pending application(s), if any, shall also stand disposed of.

May 21, 2024
Atik

(HARKESH MANUJA)
JUDGE

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