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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-26676-2024

Date of Decision: 24.05.2024

MUKESH VIJ

... Petitioner

Versus

STATE OF HARYANA AND ANOTHER

... Respondents

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

Present:- Mr. Sourabh Sheoran, 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. 188 dated 21.03.2023 (Annexure P-1) under Section 174-A IPC, registered at Police Station City Narnaul, District Mahendergarh and order dated 16.11.2022 (Annexure P-2) passed by learned Additional Chief Judicial Magistrate, Narnaul, whereby the petitioner was declared as proclaimed person in complaint bearing No. CIS No. NACT-5-2021, titled as “*M/s Baba Salak vs. Mukesh Vij*” under Section 138 of the Negotiable Instrument Act, and all other subsequent proceedings arising therefrom.

2. In *nutshell*, the brief facts of the case are that the petitioner purchased building material from the respondent No.2 and in discharge of his liability issued cheque amounting to ₹2 lakh and on presentation, the same was dishonored, as such a criminal complaint bearing CIS No. NACT-5-2021, titled as “*M/s Baba Salak vs. Mukesh Vij*” under



Section 138 of the Negotiable Instrument Act was filed against the petitioner and summons were issued and petitioner failed to appear before the Court and vide order dated 16.11.2022 (Annexure P-2) petitioner was declared as proclaimed person and FIR No.188 dated 21.03.2023, under Section 174-A IPC, at Police Station City Narnaul, District Mahendergarh (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 that the accused has paid the entire cheque amount and he does not want to continue with the complaint, accordingly vide order dated 02.05.2023 (Annexure P-3) the complaint has been dismissed as withdrawn. He further submits that since the complaint in question has also been withdrawn vide order dated 02.05.2023 (Annexure P-3) the impugned order dated 16.11.2022 (Annexure P-2) stands culminated and continuation of the instant FIR (Annexure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 impugned



order dated 16.11.2022 (Annexure P-2) and the FIR No.188 dated 21.03.2023 (Annexure P-1) under Section 174-A IPC be quashed and consequential proceedings arising therefrom be also set aside.

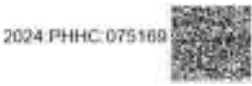
4. Notice of motion.

5. On asking of Court Ms. Gaganpreet Kaur, DAG, Haryana accepts notice on behalf of respondent No.1 State and argued that the instant FIR was registered against the petitioner as he had been declared as proclaimed person in this case vide order dated 16.11.2022 (Annexure P-2) and nothing is illegal therein, hence she prays for dismissal of the petition.

6. I have heard the respective submission made by the learned counsel for the parties.

7. 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 16.11.2022 (Annexure P-2) in the said complaint and on the basis thereof, the impugned FIR No.188 dated 21.03.2023 (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 02.05.2023 (Annexure P-3) 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.

8. 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 16.11.2022 (Annexure P-2) and the complaint has already been dismissed as withdrawn vide order dated 02.05.2023 (Annexure P-3), meaning thereby, with the dismissal of the complaint, the impugned order passed during the course of proceedings of the complaint 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.

9. Consequently, keeping in view the above said facts and circumstances, the present petition is allowed, impugned FIR No.188 dated 21.03.2023 (Annexure P-1) registered under Section 174-A IPC at Police Station City Narnaul, District Mahendergarh and order dated 16.11.2022 (Annexure P-2) passed by learned Additional Chief Judicial Magistrate,Narnaul in bearing No. CIS No. NACT-5-2021, titled as “*M/s Baba Salak vs. Mukesh Vij*” whereby petitioner was declared as proclaimed person and all consequential proceedings arising therefrom are hereby set aside.

10. Petition stands allowed

(SANJIV BERRY)
JUDGE

24.05.2024

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