

CRM-M-29188-2024

[1]

129

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

CRM-M-29188-2024

Date of decision: 09.07.2024

Dheeraj Kumar

...Petitioner

Versus

State of Punjab and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Harita Panthey, Advocate for the petitioner.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 482 Cr.P.C. seeking quashing of order dated 18.08.2023 (Annexure P-1) passed by the Court of Judicial Magistrate Ist Class, Rajpura in criminal complaint CIS No.,COMA-128/2022 dated 09.03.2022 titled as Suraj Vs. Dheeraj Kumar, under Section 138 of Negotiable Instruments Act (for brevity, NI Act), vide which the petitioner was declared as proclaimed person and FIR No 302 dated 21.09.2023 (Annexure P-2), under Section 174-A IPC registered at Police Station City Rajpura, Patiala, along with all the subsequent proceedings arising therefrom.

2. The counsel for the petitioner has submitted that complainant/respondent No.2 filed aforesaid criminal complaint against the petitioner under Section 138 of NI Act on account of dishonor of cheque. That in the said proceedings under Section 138 NI Act, the petitioner was declared proclaimed person vide order (Annexure P-1) and the Court

concerned also gave directions to the local police to register FIR under Section 174-A IPC against the petitioner. Consequently, FIR (Annexure P-2) was registered. It is further submitted that subsequently matter was compromised between the parties and settled amount was paid to the complainant by petitioner and aforesaid criminal complaint was dismissed as withdrawn vide order dated 09.03.2024 (Annexure P-4) by the Court of Presiding Officer of National Lok Adalat. Counsel for the petitioner further submits that once proceedings under Section 138 of NI Act are withdrawn, then continuation of further proceedings based on the said complaint, would be an abuse of process of Court.

3. Notice of motion.

4. Mr. Siddharth Attri, AAG, Punjab, accepts notice on behalf of State and submits that no ground is made out to quash the impugned FIR, which is independent of the criminal complaint lodged under Section 138 NI Act.

5. Ms. Palvi, Advocate has put in appearance on behalf of complainant/respondent No.2 Suraj and has admitted the fact that criminal complaint filed by the complainant under Section 138 NI Act against the present petitioner was dismissed as withdrawn vide order (Annexure P-4) as the matter was compromised between the parties. She further stated that respondent No.2 is having no objection if the present petition is allowed.

6. I have considered the submissions made by counsel for the parties.

7. Undoubtedly order Annexure P-1 and FIR P-2 are off shoot of the proceedings under Section 138 of NI Act which were initiated at the

instance of the complainant/respondent No.2. The proceedings under Section 138 NI Act have already been dropped as the parties entered into compromise and criminal complaint under Section 138 NI Act was dismissed as withdrawn vide order Annexure P-4.

8. In view of the matter, since the main complaint filed under Section 138 NI Act stands withdrawn, therefore, continuation of further proceedings including order Annexure P-1 and FIR Annexure P-2 would be nothing but an abuse of process of law.

9. In light of above, I find merit in the present petition and accordingly the petition is allowed and order dated 18.08.2023 (Annexure P-1) as well as FIR No 302 dated 21.09.2023, under Section 174-A IPC registered at Police Station City Rajpura, Patiala, (Annexure P-2) and all other subsequent proceedings arising therefrom are quashed.

09.07.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No