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

CRM-M-34149-2024

Date of decision : 24.07.2024

Virendra Kumar @ Virendra Kumar Gupta**.....Petitioner****versus****State of Haryana****.....Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Kushager Goyal, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (Oral)

1. Prayer in the present petition is for quashing of FIR No.50 dated 11.01.2023 under Sections 174-A IPC, 1860 registered at Police Station Civil Line Sirsa, District Sirsa, Haryana arising from complaint bearing NACT No.523 of 2021 dated 03.06.2021 titled as 'Thakar Chemicals limited Vs. M/s Virendra Fertilizers' under Section 138 of the Negotiable Instruments Act and quashing of order dated 17.12.2022 vide which the petitioner has been declared as proclaimed person as the substantive complaint wherefrom the proceedings had emanated itself, stand settled amongst the parties and now the subsequent proceedings, arising therefrom, would be an abuse of process of law.

2. It has been submitted by learned counsel for the petitioner that the petitioner was declared as proclaimed person vide order dated 17.12.2022 passed by the Court of Judicial Magistrate Ist Class, Sirsa. He further submits that once the main complaint filed by the complainant under Section 138 of the Negotiable Instruments Act has been withdrawn on the basis of the compromise, prosecution of the petitioner in the impugned FIR registered under Section 174-A IPC would be totally an abuse of the process



of the Court.

3. Notice of motion.

4. On the asking of the Court, Mr. Tanuj Sharma, A.A.G., Haryana, accepts notice on behalf of the respondent-State.

5. Learned State counsel on the other hand contends that the petitioner was rightly declared as a proclaimed person, pursuant to which FIR No.50 dated 11.01.2023, under Section 174-A of IPC, at Police Station Civil Line Sirsa, District Sirsa Haryana was registered against the petitioner and the petitioner is liable to be prosecuted in the said case, as he had failed to appear in the Court despite orders.

6. I have heard counsel for the parties and perused the record. It is apparent that the present FIR was registered due to non-appearance of the petitioner in a complaint case filed under Section 138 of NI Act and he was declared as a proclaimed person in the proceedings under the Negotiable Instruments Act. Ultimately, the matter was settled between the parties and the complainant withdrew his complaint on 03.07.2023. As the main case i.e. complaint filed under Section 138 of the Negotiable Instruments Act already stands withdrawn, continuation of the proceedings under Section 174-A of IPC would not serve any purpose as the root cause of controversy i.e. complaint under Section 138 of the Negotiable Instruments Act already stood withdrawn on the basis of compromise. A coordinate Bench of this Court in a case titled as “**Ashok Madan vs. State of Haryana and another**” reported as **2020(4) RCR (Criminal) 87** has also held as under:-

“No doubt, the learned counsel for the respondent has vehemently argued that the offence under Section 174A I.P.C. is independent of the main case, therefore, merely because the main case has been dismissed for want of



prosecution, the present petition cannot be allowed, however, keeping in view the fact that the present FIR was registered only on account of absence from the proceedings in the main case which had been subsequently regularised by the court while granting bail to the petitioner, the default stood condoned. In such circumstances, continuation of proceedings under Section 174A I.P.C. shall be abuse of the process of court.

7. So, keeping in view the above-said facts and the law settled, continuation of the proceedings under Section 174-A of IPC shall be abuse of the process of the Court. Consequently, present petition is disposed of subject to payment of costs of Rs.10,000/- to be deposited within 10 days from today by the petitioner with the **‘Punjab and Haryana High Court Bar Association’** and order dated 17.12.2022 passed in Complaint Case bearing No.NACT-523 of 2021 whereby petitioner was declared Proclaimed Person by learned Judicial Magistrate Ist Class, Sirsa along with subsequent proceedings arising out of the same including FIR No.50 dated 11.01.2023, under Section 174-A of IPC, at Police Station Civil Line Sirsa, District Sirsa, Haryana, is quashed on account of the matter having been amicably settled between the parties.

8. Needless to say that in case the petitioner fails to pay the cost and comply with the aforesaid direction, the order under challenge dated 17.12.2022 and FIR No.50 dated 11.01.2023 would come in force.

9. Disposed of.

24.07.2024

ps-I

(RAJESH BHARDWAJ)
JUDGE

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