

245 (2 cases)

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

(1) CRM-M No. 39258 of 2023 (O&M)
Date of Decision: 09.01.2024

Sukhwant Kaur and another
..... Petitioners

Versus

State of Punjab and another
..... Respondents

(2) CRM-M No. 39668 of 2023 (O&M)

Sukhwant Kaur
..... Petitioner

Versus

State of Punjab and another
..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Ankit Gupta, Advocate,
for the petitioner(s) (in both cases).

Mr. Gurlal Singh Dhillon, Assistant Advocate General, Punjab
for respondent No. 1 / State (in both cases).

Mr. Raghav Garg, Advocate for
Mr. Sandeep Suri, Advocate
for respondent No. 2-Axis Bank (in both cases).

HARKESH MANUJA, J. (ORAL)

This order shall dispose off the present two criminal petitions as
the same arise out of common impugned order dated 11.01.2022, whereby
the petitioners were declared as proclaimed persons. For the sake of
convenience, facts are being culled out from CRM-M-39258-2023.

[2] The petitioners seek quashing of the order dated 11.01.2022
passed by learned Judicial Magistrate 1st Class, Amritsar in complaint case

CRM-M No. 39258 of 2023 (O&M) and
CRM-M No. 39668 of 2023 (O&M)

No. NACT-5457-2018, titled “*Axis Bank Limited Versus Sukhwant Kaur*”, whereby the petitioners were declared as proclaimed persons; further quashing of FIR No. 66, dated 27.02.2022 (Annexure P-1) under Section 174-A of the IPC registered at Police Station Division A, District Police Commissionerate Amritsar and all consequential proceedings arising therefrom, in view of the complaint in question having been dismissed as withdrawn vide order dated 09.09.2023.

[3] At the outset, learned counsel for the petitioner has drawn the attention of this Court to order dated 09.09.2023 wherein the complaint in question under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the NI Act') stands withdrawn by the complainant based on an amicable settlement arrived at between the parties and the petitioners having made payment of the said cheque amount to the complainant. A prayer, therefore, has been made that in the aforementioned facts and circumstances, no purpose would be served by prosecuting the petitioners under Section 174-A of the IPC, moreso, when they were not involved in any other criminal case much less under Section 138 of the NI Act nor had they been declared as proclaimed offenders prior thereto in any other case.

In support, learned counsel for the petitioners relies upon a judgment dated 09.03.2023 passed by Coordinate Bench of this Court in ***CRM-M-11846-2023***, titled “***Sher Singh Versus State of Haryana***”.

[4] Learned State Counsel, while opposing the prayer made by the learned counsel for petitioners, contends that it was evident that the petitioners had intentionally not appeared during the proceedings before the Court below and hence, the prayer of the petitioners deserves to be declined.

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[5] I have heard learned counsel for the parties and perused the record. I find substance in submissions made on behalf of learned counsel for the petitioners.

[6] The petitioners were declared as proclaimed persons vide impugned order dated 11.01.2022 in a complaint case under Section 138 of the NI Act.

[7] Admittedly, the said complaint was withdrawn after the parties arrived at a compromise. Furthermore, the petitioners were neither involved in any other criminal case nor were they declared as proclaimed offenders / persons any time prior thereto. Hence, the continuation of criminal proceedings under Section 174-A IPC would serve no useful purpose.

[8] Accordingly, the present petitions are **allowed** and the impugned order dated 11.01.2022 declaring the petitioners as proclaimed persons as well as FIR registered under Section 174-A IPC and all consequential proceedings arising therefrom are set aside, subject to payment of costs of Rs.10,000/- by the petitioner(s) (in each case) to be deposited with the complainant-Bank within a period of fifteen days from the date of receipt of certified copy of this order, which shall be a condition precedent.

January 09, 2024
'dk kamra'

(HARKESH MANUJA)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>