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

CRM-M No.38361 of 2024

Date of Decision: 08.08.2024

Gurnam Singh @ Gurnam Singh Mahey**..... Petitioner****Versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present: Mr. Sandeep Sharma, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (ORAL)

1. Present petition has been filed under Section 528 of Bhartiya Nagarik Suraksha Sanhita, 2023 for quashing of impugned order dated 01.10.2022 (Annexure P-7) passed by the learned SDJM, Phillaur whereby the petitioner has been declared as proclaimed person in case bearing NACT No.281/2019 (Annexure P-1) titled as “Mohinder Singh vs. Gurnam Singh”. Further prayer has been made for quashing of FIR No.309, dated 22.10.2022 (Annexure P-8) under Section 174-A of IPC, 1860, registered in Police Station Phillaur, District Jalandhar Rural as the matter has already been settled between the parties and even the complaint has already been withdrawn by the complainant vide order dated 10.01.2024 (Annexure P-10) passed by the learned Sub Divisional Judicial Magistrate, Phillaur and for staying the operation of impugned



order dated 01.10.2022 (Annexure P-7) and the proceedings arising out of FIR No.309, dated 22.10.2022 (Annexure P-8) under Section 174-A IPC, 1860, PS Phillaur, Distt. Jalandhar Rural.

2. It has been submitted by learned counsel for the petitioner that the complainant filed a complaint under Section 138 of Negotiable Instrument Act, and during trial the petitioner was declared as proclaimed person vide impugned order dated 01.10.2022 passed by Sub Divisional Judicial Magistrate, Phillaur. He further submits that thereafter the petitioner and the complainant amicably resolved the issued and thus entered into the compromise. He has submitted that as the main complaint filed by the complainant under Section 138 of the Negotiable Instruments Act was dismissed as withdrawn vide order dated 10.01.2024, prosecution of the petitioner in the impugned FIR registered under Section 174-A IPC would be totally an abuse of the process of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. J. S. Arora, DAG, Punjab 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.309 dated 22.10.2022, under Section 174-A of IPC, at Police Station Phillaur, District Jalandhar Rural 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.

7. It is apparent that the present FIR was registered due to non-appearance of the petitioner in a complaint case filed under Section 138/142 of the Negotiable Instruments Act and he was declared as a proclaimed person in the proceedings under the Negotiable Instruments Act. As the main case i.e. complaint filed under Section 138 of the Negotiable Instruments Act already stands dismissed as withdrawn in view of the settlement between the parties, the 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 stands dismissed as withdrawn. 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.”



8. 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 and impugned order dated 01.10.2022 passed in Complaint Case bearing No.NACT-281/2019 whereby petitioner was declared Proclaimed Person by learned Sub Divisional Judicial Magistrate, Phillaur along with subsequent proceedings arising out of the same including FIR No.309 dated 22.10.2022, under Section 174-A of IPC, 1860, registered at Police Station Phillaur, District Jalandhar Rural, are quashed.

9. Disposed of.

(RAJESH BHARDWAJ)
JUDGE

08.08.2024
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No