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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-44843 of 2023
Date of Decision: 16.02.2024

SANDEEP KUMAR

... Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

... Respondents

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

Present:- Mr. Som Nath Saini Advocate for
Mr. B.S. Beniwal, Advocate for the petitioner.

Ms. Suman Beniwal, Advocate
for respondent No.2

Mr. Harpreet Singh, Addl. AG, Punjab.

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 order 04.07.2023 (Annexure P-2) passed by learned Judicial Magistrate First Class, Rajpura, District Patiala in Complaint bearing CIS No.COMA-229-2020 declaring petitioner as proclaimed offender as well as FIR No. 0224 dated 01.08.2023 under Sections 174-A IPC Police Station City Rajpura, District Patiala (Annexure P-3) as well as all consequential proceedings arising therefrom.

2. In *nutshell*, the brief facts of the case are that petitioner issued

cheque to the respondent and on the presentation of same it was dishonoured and aggrieved complainant M/s Sarao Finance Company filed a criminal Complaint No.COMA/229/2020 (Annexure P-1) under Section 138 of the Negotiable Instrument Act, titled as “*M/s Sarao Finance Company vs. Sandeep Kumar*” and petitioner was declared as proclaimed offender vide order dated 04.07.2023 (Annexure P-2) and FIR No.0224 dated 01.08.2023 under Section 174-A IPC was registered (Annexure P-3).

3. It is, *inter alia* contended by learned counsel for the petitioner that complainant had moved an application to withdraw the complaint on account of compromise between the parties dated 04.08.2023 (Annexure P-4) and accordingly, vide order dated 05.08.2023 (Annexure P-5) the complaint stands dismissed as withdrawn. He submits that since the complaint in question has been withdrawn vide order dated 05.08.2023 (Annexure P-5) the impugned order stands culminated and continuation of the instant FIR on the basis of impugned order would be the 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 present

proceedings arising out of the FIR No. 224 dated 01.08.2023 (Annexure P-3) under Section 174-A IPC be quashed and consequential proceedings arising therefrom be also set aside.

4. The learned State counsel has admitted the factum of compromise and withdrawal of complaint under Section 138 of the Negotiable Instrument Act, against the petitioner vide order dated 05.08.2023 (Annexure P-5).

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

6. 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 offender vide order dated 04.07.2023 (Annexure P-2) in the said complaint and on the basis thereof, the impugned FIR No.224 dated 01.08.2023 (Annexure P-3) was registered against him. It is not disputed that the aforesaid complaint has since been withdrawn by the complainant vide order dated 05.08.2023 (Annexure P-5) 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 offender 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.

7. 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 registration of the present FIR on the basis of above said order, declaring the petitioner as proclaimed offender would not serve any purpose and keeping the said FIR and consequent proceedings alive after the withdrawal of the complaint would not serve any purpose but would be the abuse of process of law.

8. Consequently, keeping in view the above said facts and circumstances, the present petition is allowed, impugned order dated 04.07.2023 (Annexure P-2) passed in Complaint bearing CIS No.COMA-229-2020 declaring the petitioner as proclaimed offender and FIR No. 0224 dated 01.08.2023 under Sections 174-A IPC Police Station City Rajpura, District Patiala (Annexure P-3) and all consequential proceedings arising therefrom are hereby set aside.

9. Petition stands allowed.

(SANJIV BERRY)
JUDGE

16.02.2024
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| i) | Whether speaking/reasoned? | Yes |
| ii) | Whether reportable? | Yes |