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

**CRM-M-45174 of 2022
Date of Decision: 12.02.2024**

KISHAN LAL**... Petitioner**

Versus

STATE OF HARYANA**... Respondent****CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.**

Present:- Mr. Rishab Dhiman, Advocate for
Mr. Lupil Gupta, Advocate for the petitioner.

Mr. Sarabjit Singh Cheema, AAG, Haryana

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 04.05.2022, (Annexure P-2) passed by learned Judicial Magistrate First Class, Sirsa in Complaint bearing No. NACT-920 of 2019 dated 23.07.2019 declaring petitioner as proclaimed person as well as FIR No. 281 dated 13.05.2022 under Sections 174-A IPC Police Station Civil Line, Sirsa (Annexure P-1) as well as all consequential proceedings arising therefrom.

2. In *nutshell*, the brief facts of the case are that complainant Bank has filed a criminal Complaint No.NACT-920 of 2019 registered under Section 138 of the Negotiable Instrument Act, titled as “ *H.D.F.C. Bank vs.*

Kishan Lal” and petitioner was declared as proclaimed person vide order dated 04.05.2022 (Annexure P-2) and FIR No. 281 dated 13.05.2022 under Section 174-A IPC was registered (Annexure P-1).

3. It is, *inter alia* contended by learned counsel for the petitioner that petitioner had already deposited the amount and has regularized his bank account and petitioner was assured by the Bank that the Bank shall withdraw the complaint and due to this reason he failed to appear before the Court and was declared as proclaimed person vide order dated 04.05.2022 (Annexure P-2). He submits that Mr. Saurabh Mehta, authorized person of the Bank appeared before the Court and filed an application for withdrawal of the complaint and accordingly the complaint stands dismissed as withdrawn vide order dated 21.07.2022 (Annexure P-3). He submits that since the complaint in question has been withdrawn vide order dated 21.07.2022 (Annexure P-3) the impugned order stands culminated and continuation of the instant FIR on the basis of impugned order would be the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. 281 dated 13.05.2022 (Annexure P-1) 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 21.07.2022 (Annexure P-3).

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 person vide order dated 04.05.2022 (Annexure P-2) in the said complaint and on the basis thereof, the impugned FIR No.281 dated 13.05.2022 (Annexure P-1) was registered against him. It is not disputed that the aforesaid complaint has since been withdrawn by the complainant vide order dated 21.07.2022 (Annexure P-3) 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 person 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 person would not serve any purpose and keeping the said FIR and consequent proceedings alive after the dismissal of the complaint would not serve any purpose but would be abuse of process of law.

8. Consequently, keeping in view the above said facts and circumstances, the present petition is allowed, impugned order dated 04.05.2022 passed in Criminal Complaint No.NACT-920 of 2019 (Annexure P-2) declaring the petitioner as proclaimed person and FIR No.281 dated 13.05.2022 (Annexure P-1) registered under Section 174-A at Police Station Civil Line, Sirsa and all consequential proceedings arising therefrom are hereby set aside.

9. Petition stands allowed.

(SANJIV BERRY)
JUDGE

12.02.2024
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| i) | Whether speaking/reasoned? | Yes |
| ii) | Whether reportable? | Yes |