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

CRM-M-45292-2024

Date of Decision: September 25, 2024

Sumit

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Deepak Kundu, Advocate
for the petitioner.

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RAJESH BHARDWAJ, J.(ORAL)

1. Prayer in the present petition is for quashing of order, dated 10.04.2023, passed by the Court of learned Judicial Magistrate Ist Class, Rohtak, whereby the petitioner has been declared as proclaimed person in case No.NACT/700/18, dated 23.10.2018, complaint under Section 138 of Negotiable Instruments Act, 1881 (for brevity, 'NI Act') as the same is in contravention of Section 82 of the Code of Criminal Procedure as well as the matter stand settled between the petitioner and the complainant vide order dated 17.08.2024, Annexure P-5.

2. Learned counsel for the petitioner has submitted before this Court that on receiving the summons of the complaint filed under Section 138 of NI Act by the complainant, the petitioner duly appeared before the trial Court and filed an application for bail, which was allowed and he was released on bail. It is further submitted that thereafter the petitioner



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to Covid-19 pandemic restrictions, he could not appear before the trial Court and hence was not aware of the proceedings and as such he was declared as proclaimed person on 10.04.2023 and directions were issued to register FIR under Section 174-A IPC against him. He further submits that he was declared proclaimed person without being served by any mode of service. It is further submitted that the main complaint has already been dismissed as withdrawn on 17.08.2024 on the basis of compromise effected between the parties. He submits that in the facts and circumstances of the case, order, dated 10.04.2023, declaring the petitioner as proclaimed person would be totally an abuse of the process of the law.

3. Notice of motion.

4. On asking of the Court, Mr.Sumit Jain, Additional Advocate General, Haryana, who is present in Court, accepts notice on behalf of the respondents/State and contends that the petitioner was rightly declared as proclaimed person.

5. I have heard counsel for the parties and perused the record. It is apparent that the petitioner was declared as a proclaimed person vide order dated 10.07.2023. However, the main complaint has already been dismissed as withdrawn by the complainant in view of the compromise arrived at between the parties. As complaint, the root cause of litigation itself has already been withdrawn by the complainant, so continuation of the FIR as well as proceedings under Section 174-A IPC would not serve any purpose. A Coordinate Bench of this Court in a case titled as **Jitender Singh vs State of Haryana and another**, passed in CRM-M-47891-2021 on 16.11.2021, has held that if the complaint filed under Section 138 of NI Act stood



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withdrawn by the complainant on the basis of compromise arrived at between the parties, continuation of FIR under Section 174-A IPC is nothing but an abuse of process of law.

6. A similar view has been taken by this Court in Anil Kumar Versus Jitender Kumar and another, CRM-M-5878-2022 decided on 06.04.2022 and Varinder Kumar @ Virender Kumar Versus State of Haryana and another, CRM-M-42551-2021 decided on 19.04.2022.

7. So, keeping in view the above-said facts, it is clear that petitioner was declared proclaimed person on account of his absence and now the complaint has already been withdrawn in view of the compromise effected between the parties. Continuation of the FIR as well as proceedings under Section 174-A IPC shall be an abuse of the process of the law. Keeping in view the law settled, the order dated 10.07.2023 (Annexure P-4) passed by the learned JMIC, Rohtak, whereby, the petitioner was declared as Proclaimed Person along with subsequent proceedings arising out of the same are quashed.

8. Petition stands allowed.

September 25, 2024

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(RAJESH BHARDWAJ)
JUDGE

1. Whether speaking/reasoned ?
2. Whether reportable ?

Yes/No
Yes/No