



121

THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.47088 of 2024
Date of Decision:20.09.2024

Susheel Kumar

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Ms. Radhika, Advocate for
Mr. Ashwani Kumar Vaishnav, Adocate
for the petitioner.

RAJESH BHARDWAJ, J. (ORAL)

1. Present petition has been filed for quashing the impugned order dated 09.10.2017 (Annexure P-1) vide which the petitioner was declared as proclaimed person in complaint No.NACT/6577/2016 titled as Indiabulls Housing Finance Ltd. Versus Susheel Kumar and subsequent proceedings emanating therefrom. Further prayer has been made for staying the arrest of the petitioner.
2. It has been submitted by learned counsel for the petitioner that vide order dated 08.12.2018, the complaint filed by the complainant has already been withdrawn. She has submitted that the petitioner was declared as proclaimed person vide order dated 09.10.2017 passed by the Court of Judicial Magistrate Ist Class, Gurugram. She further submits



that once the main complaint filed by the complainant under Section 138 of the Negotiable Instruments Act has been dismissed as withdrawn in Lok Adalat, prosecution of the petitioner in the impugned FIR registered under Section 174-A IPC would be totally an abuse of the process of the Court.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. Sumit Jain, Addl. A.G., Haryana 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.

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 As the main case i.e. complaint filed under Section 138 of the Negotiable Instruments Act already stands dismissed as withdrawn, the continuation of the proceedings under Section 174-A of IPC would not serve any purpose as the root cause of controversy i.e. complaint under Section 138 of the Negotiable Instruments Act already stands dismissed as withdrawn.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 09.10.2017 passed in Complaint Case bearing No.NACT-6577/2016 whereby petitioner was declared Proclaimed Person by learned Judicial Magistrate First Class, Gurugram, along with subsequent proceedings including FIR etc. arising therefrom are quashed.

9. Disposed of.

(RAJESH BHARDWAJ)
JUDGE

20.09.2024
rittu

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