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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-50795 of 2023

Date of Decision: 12.01.2024

HARVINDER KAUR

... Petitioner

Versus

STATE OF HARYANA AND ANR.

... Respondents

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

Present:- Mr. Rajiv Sharma, Advocate
for the petitioner.

Mr. Surender Singh, 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 FIR No. 0024 dated 07.01.2023 registered under Section 174-A at Police Station Karnal Civil Lines, Karnal (Annexure P-1) arising out of Complaint No. NACT 2705-2018 dated 10.05.2018 titled as “*M/s Karnal Feed Pvt Ltd Vs. Harvinder Kaur*” (Annexure P-2) filed under Section 138 of the Negotiable Instrument Act 1881 and for quashing of order dated 30.01.2020 (Annexure P-3) declaring the petitioner as proclaimed person.

2. In nutshell, the brief facts of the case are that husband of the petitioner started business venture and purchased goods from complainant M/s Karnal Feed Pvt. Ltd on credit and the outstanding against the husband of the petitioner was ₹11,45,000/- and the petitioner issued cheques. On presentation of cheques the same were dishonoured with the reasons “funds

insufficient” and the complainant filed complaint under Section 138 of the Negotiable Instrument bearing No. NACT 2705-2018 dated 10.05.2018 titled as “*M/s Karnal Feed Pvt Ltd Vs. Harvinder Kaur*” (Annexure P-2) against the petitioner and summons were issued and petitioner failed to appear before the Court and vide order dated 30.01.2020(Annexure P-3) petitioner was declared as proclaimed person and SHO concerned was directed to register case under Section 174-A IPC. Vide order dated 19.01.2023 petitioner surrendered before the Court and moved application for bail and the same was granted and hence the petition for quashing of the impugned orders.

3. It is, *inter alia* contended by learned counsel for the petitioner that compromise has been effected between the parties and complaint vide order dated 06.03.2023 (Annexure P-4) was ordered to be dismissed as withdrawn. He further submits that original proceedings i.e. the aforesaid complaint has already come to an end on the basis of compromise, therefore, present proceedings under Section 174-A IPC should also come to an end. 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 dated 07.01.2023 (Annexure P-1) under Section 174-A IPC shall 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 06.03.2023 (Annexure P-4).

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 30.01.2020 (Annexure P-3) in the said complaint and on the basis thereof, the impugned FIR No.0024 dated 07.01.2023 (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 06.03.2023 (Annexure P-4) 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 fact remains that the petitioner had been declared as proclaimed person in the complaint referred to above vide order dated 30.01.2020 (Annexure P-3) and the complaint has already been dismissed as withdrawn vide order dated 06.03.2023(Annexure P-4), meaning thereby, with the dismissal of the complaint the impugned order passed during the course of proceedings of the complaint had already stood culminated, therefore, 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 FIR No.0024 dated 07.01.2023 registered under Section 174-A IPC at Police Station Karnal Civil Lines, Karnal (Annexure P-1) arising out of order dated 30.01.2020 (Annexure P-3) passed by the learned Judicial Magistrate First Class, Karnal in complaint case No. NACT 2705-2018 dated 10.05.2018 titled as “*M/s Karnal Feed Pvt Ltd Vs. Harvinder Kaur*” (Annexure P-2), declaring the petitioner as proclaimed person and all consequential proceedings arising therefrom are hereby set aside.

9. Petition stands allowed.

(SANJIV BERRY)
JUDGE

12.01.2024

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