

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
CRM-M-50568-2023(O&M)
Date of decision: 02.04.2024

Bharat Kumar @ Ganga Ram
...Petitioner
Versus
State of Haryana and another
...Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Raminder Singh, Advocate for the petitioner.
Mr. Kiran Pal Singh, AAG, Haryana.
Mr. Sahdev, Advocate for respondent No. 2.

MAHABIR SINGH SINDHU, J.

Present petition under Section 482 of the Code of Criminal Procedure (for short ‘Cr.P.C.’) has been filed for quashing of FIR No. 224 dated 03.03.2023 under Section 174-A of Indian Penal Code, 1860 (for short ‘IPC’), registered at Police Station Civil Line, Sirsa, District Sirsa and all consequential proceeding arising therefrom qua petitioner upon withdrawal of proceedings under Section 138 of Negotiable Instruments Act, 1881 (for short ‘Act’), on the basis of amicable settlement between the parties before learned Judicial Magistrate First Class, Sirsa.

(2) It transpires that a complaint under Section 138 of the Act was filed against the petitioner by complainant-Seema Devi. Since the petitioner did not appear before learned trial Court, proclamation proceedings were initiated against him vide order dated 30.07.2022 and ultimately, he was declared a proclaimed person vide order dated 22.02.2023 (P-2). Learned trial Court also directed the concerned SHO to register an FIR against the petitioner under

Section 174-A of the IPC; hence, present FIR No. 224 (supra). For reference, relevant part of the aforesaid order reads as under:-

“ Proclamation under Section 82(1) Cr. P.C. issued against accused received back duly effected. Statement of tamili above named is recorded to the effect that he has pasted the copy of proclamation on the premises of accused on 06.08.2022 and as such in these circumstances it is clear that the statutory period of 30 days from the date of affixation of proclamation on the conspicuous part of premises of accused has already been expired. Today, none appeared on behalf of accused despite repeated calls since morning. Waited sufficiently. No further wait would be justified. Hence accused is declared as proclaimed person. Intimation in this regard be sent to PO staff and SHO concerned.

Complainant has made a statement in writing in this Court that the evidence led earlier in the present case may also read in evidence under Section 299 Cr.P.C. He further stated that he has no objection if the present case file be consigned to the record room and re-open whenever the accused is arrested or surrender before the Court.

Complainant has made a statement in writing that he has no knowledge about the property details of the accused. Accordingly, as no property details has been furnished by the complainant, the proceedings regarding furnishing of property of accused stands dropped.

SHO concerned is directed to register the FIR against the accused under Section 174-A of IPC and submitted his report before the Court on 04.03.2023.”

(3) This Court while issuing notice of motion on 06.10.2023, passed the following order:-

“ Contends inter alia that matter has been amicably settled between the parties and reference in this regard is made to P-3.

Notice of motion for 28.11.2023.

Till the next date of hearing, further proceedings on the basis of FIR No. 224 dated 03.03.2023, under Section 174-A IPC, registered at Police Station Civil Lines, Sirsa shall remain stayed.”

(4) On 01.02.2024, this Court had passed the following order:-

“ Contends that matter has been compromised between the parties i.e. petitioner as well as respondent No.2.

(2) It transpires that notice of motion has already been issued by this Court, vide order dated 06.10.2023.

(3) Learned Counsel for respondent No.2 acknowledged the factum of compromise and reference in this regard is made to order dated 12.09.2023, passed by learned Judicial Magistrate 1st Class, Sirsa (P-3).

(4) Petitioner shall file his affidavit that there is no other criminal case(s) pending against him and also give the details of any other FIR(s), already quashed on the basis of compromise.

(5) In view of the above, let parties appear before the Court of learned Illaqa Magistrate/trial Court on or before 29.02.2024 for recording their statement(s) with reference to the compromise, if any, entered into between them.

(6) Learned Illaqa Magistrate/trial Court shall record the statement(s) of all accused, complainant/injured and victim, if any, and submit a report to this Court before the next date of hearing containing the following information:-

(i). Whether the statements of the parties are bona fide and not result of any pressure or coercion etc. in any manner?

(ii). Whether the compromise effected between the parties is genuine and valid?

(iii). Whether all the accused, complainant and injured are party to the compromise and if not, the details/particulars of such person(s)?

(iv). Whether any other case is pending against either of the parties or not, if yes, the details thereof?

(v). Whether any of the persons involved in this case/dispute has been declared a proclaimed offender?

(vi). Whether any of the petitioner(s) is/are previous convict or not?

(7) List before this Court on 02.04.2024 for further consideration.

(8) Meanwhile, learned State Counsel shall also get the instructions in the matter as to whether the State has any objection?

(9) Copy of this order be sent to learned Judicial Officer concerned forthwith for information and strict compliance.

(10) Till the next date of hearing, interim order to continue.”

(5) In terms of aforesaid order, statements of both the parties were

recorded and a report dated 01.03.2024 has been submitted in this regard by

learned Judicial Magistrate First Class, Sirsa dated 29.02.2024 and operative part of the same reads as under:-

“Both the counsel representing the parties have also stated that the matter has been compromised between the parties with their free consent and there is no ill will between them. So, after perusal of statements of the parties and after enquiring from the parties independently as well as their counsels, the Court is of the opinion that the compromise arrived between the parties is genuine and voluntarily made, without any undue influence, coercion threat or pressure.”

(6) Today also, it is acknowledged by both the sides that matter has been amicably settled between them. Apart that, the main complaint under Section 138 of the Act was dismissed as withdrawn vide order dated 12.09.2023 (P3) passed by learned Judicial Magistrate First Class, Sirsa. Since the main *lis* between the parties has been decided, thus, continuation of proceedings under Section 174-A IPC would be an exercise in futility and unnecessarily consume valuable time of the Court.

(7) As a result thereof, petition is allowed. FIR No. 224 dated 03.03.2023 under Section 174-A IPC, registered at Police Station Civil Line, Sirsa, District Sirsa alongwith resultant proceedings, if any, are quashed and set aside.

(8) Pending application(s), if any, shall also stand disposed off.

02.04.2024
Harish Kumar

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No