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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-51980 of 2023
Date of Decision: 15.01.2024

BALJIT KAUR

... Petitioner

Versus

RANJIT HOSPITAL AND ANOTHER

... Respondents

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

Present:- Mr. Ranjit K.Jaswal, Advocate
for the petitioner.
Mr. Sarabjit Singh Cheema, AAG, Punjab.

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. 94 dated 30.04.2021 registered under Section 174-A at Police Station Cantonment, District Police Commissionerate Amritsar (Annexure P-5) and order dated 03.12.2019 (Annexure P-3) passed by the learned Judicial Magistrate First Class, Amritsar, whereby the petitioner was declared as proclaimed person in Complaint No. NACT 4749/2018 dated 28.08.2018 titled as “*Ranjit Hospital vs. Baljit Kaur*” (Annexure P-1) and subsequent proceedings arising out of the same.

2. In *nutshell*, the brief facts of the case are that petitioner obtained a friendly loan from the complainant and issued a cheque in lieu thereof. On

presentation of cheques the same was dishonoured and the complainant filed complaint under Section 138 of the Negotiable Instrument bearing No. NACT 4749/2018 dated 28.08.2018 titled as “*Ranjit Hospital vs. Baljit Kaur*” (Annexure P-1) against the petitioner and summons were issued and petitioner failed to appear before the Court and vide order dated 03.12.2019(Annexure P-3) petitioner was declared as proclaimed person and case under Section 174-A IPC was registered against the present petitioner.

3. It is, *inter alia* contended by learned counsel for the petitioner that a criminal complaint NACT 4749/2018 dated 28.08.2018 titled as “*Ranjit Hospital vs. Baljit Kaur*” (Annexure P-1) was filed against the petitioner wherein the learned trial Court declared the petitioner as proclaimed person vide order dated 03.12.2019 (Annexure P-3) and later on she was arrested and was granted concession of bail. During the course of proceedings compromise was effected between the parties and complainant had withdrawn the complaint vide order dated 20.05.2023 (Annexure P-7). He submits that the FIR dated 30.04.2021 Annexure (P-5) was registered on the basis of the order dated 24.02.2021 (Annexure P-4) and petitioner was declared as proclaimed person vide order dated 03.12.2019 (Annexure P-3) passed by learned Judicial Magistrate First Class Amritsar in the aforesaid complaint. Since the complaint in question has been withdrawn vide order dated 20.05.2023 (Annexure P-7) the impugned orders stands culminated and continuation of the instant FIR on the basis of impugned order would be 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 dated 30.04.2021 (Annexure P-5) under Section 174-A IPC shall be quashed and consequential proceedings arising therefrom be also set aside.

4. The learned State counsel on instructions from ASI, Hardip Kumar has admitted the factum of compromise and withdrawal of complaint under Section 138 of the Negotiable Instrument Act, against the petitioner vide order dated 20.05.2023 (Annexure P-7).

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 03.12.2019 (Annexure P-3) in the said complaint and on the basis thereof, the impugned FIR No.94 dated 30.04.2021 (Annexure P-5) was registered against him. It is not disputed that the aforesaid complaint has since been withdrawn by the

complainant vide order dated 20.05.2023 (Annexure P-7) 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 03.12.2019(Annexure P-3) and the complaint has already been dismissed as withdrawn vide order dated 20.05.2023 (Annexure P-7), 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. 94 dated 30.04.2021 registered under Section 174-A at Police Station Cantonment, District Police Commissionerate Amritsar (Annexure P-5) and order dated

03.12.2019 (Annexure P-3) passed by the learned Judicial Magistrate First Class, Amritsar, whereby the petitioner was declared as proclaimed person in Complaint No. NACT 4749/2018 dated 28.08.2018 titled as “*Ranjit Hospital vs. Baljit Kaur*” (Annexure P-1) and all consequential proceedings arising therefrom are hereby set aside.

9. Petition stands allowed.

(SANJIV BERRY)
JUDGE

15.01.2024

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