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

**CRM-M-52619 of 2023
Date of Decision: 01.02.2024**

BEERPAL KAUR ALIAS VEERPAL KAUR**... Petitioner**

Versus

STATE OF HARYANA AND ANOTHER**... Respondents****CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.**

Present:- Mr. Rishab Dhiman, Advocate for
Mr. Lupil Gupta, 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 order dated 19.09.2022 (Annexure P-1) passed by learned Judicial Magistrate First Class, Sirsa in Criminal Complaint No. NACT-1114 of 2021 registered under Section 138 of the Negotiable Instrument Act, declaring the petitioner as proclaimed person as well as and FIR No.888 dated 11.10.2022 (Annexure P-2) registered under Section 174-A IPC at Police Station City, Sirsa, District Sirsa and all subsequent proceedings arising therefrom.

2. In *nutshell*, the brief facts of the case are that complainant Bank

has filed a criminal Complaint No. NACT-1114 of 2021 registered under Section 138 of the Negotiable Instrument Act, titled as “ *H.D.F.C. Bank vs. Beerpal Kaur*” and summons were issued and on non appearance of petitioner, he was declared as proclaimed person vide order dated 19.09.2022 (Annexure P-1) and FIR dated 11.10.2022 under Section 174-A IPC was registered (Annexure P-2).

3. It is, *inter alia* contended by learned counsel for the petitioner that petitioner was out of India and she was not having knowledge about the proceedings and on having knowledge about the Court proceedings she had paid the amount and complainant Bank had suffered statement that the petitioner has already paid the amount and does not want to proceed with complaint. Accordingly, vide order dated 23.01.2023 (Annexure P-3) the complaint filed by the Bank was ordered to be dismissed as withdrawn. He submits that since the complaint in question has been withdrawn vide order dated 23.01.2023 (Annexure P-3) the impugned order stands culminated and continuation of the instant FIR on the basis of impugned order would be the 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 No.888 dated 11.10.2022 (Annexure P-2) under Section 174-A IPC 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 23.01.2023 (Annexure P-3).

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 19.09.2022 (Annexure P-1) in the said complaint and on the basis thereof, the impugned FIR No.888 dated 11.10.2022 (Annexure P-2) was registered against him. It is not disputed that the aforesaid complaint has since been withdrawn by the complainant vide order dated 23.01.2023 (Annexure P-3) on the basis of amicable settlement between the parties. It has been held in the judgments referred above that when the main complaint in which the petitioner has been declared proclaimed person is 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 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 withdrawl 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 order dated 19.09.2022 passed in Criminal Complaint No. NACT-1114 of 2021 (Annexure P-1) declaring the petitioner as proclaimed person and FIR No.888 dated 11.10.2022 (Annexure P-2) registered under Section 174-A at Police Station City, Sirsa, District Sirsa and all consequential proceedings arising therefrom are hereby set aside.

9. Petition stands allowed.

(SANJIV BERRY)
JUDGE

01.02.2024

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