

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

**CRM-M No. 56275 of 2022 (O&M)
Date of Decision: 06.03.2024**

Hari Chand

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Ms. Hardeep Kaur, Advocate for
Mr. Rose Gupta, Advocate
for the petitioner.

Mr. Gurmeet Singh, Assistant Advocate General, Haryana
for respondent No. 1.

HARKESH MANUJA, J. (ORAL)

The petitioner, by way of present petition filed under Section 482 Cr.P.C., seeks quashing of FIR No. 653 dated 19.12.2019 (Annexure P-2) under Section 174-A of the IPC, registered at Police Station HTM Hisar, District Hisar and all consequential proceedings arising therefrom, in view of the complaint in question having been dismissed as withdrawn vide order dated 24.09.2021 (Annexure P-4) passed by the learned Presiding Officer, Daily Lok Adalat-cum-JMIC, Hisar.

[2] At the outset, learned counsel for the petitioner has drawn the attention of this Court to order dated 24.09.2021, wherein the complaint in question under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the NI Act') stands withdrawn by the complainant-respondent No. 2 based on an amicable settlement arrived at between the parties and the

petitioner having made payment of the said cheque amount to the complainant. A prayer, therefore, has been made that in the aforementioned facts and circumstances, no purpose would be served by prosecuting the petitioner under Section 174-A of the IPC, moreso, when he was not involved in any other criminal case much less under Section 138 of the NI Act nor had he been declared a proclaimed offender prior thereto in any other case.

[2.1] Learned counsel for the petitioner also submits that non-appearance of the petitioner before the Court below was unintentional; though he was declared as proclaimed person vide order dated 02.11.2019 passed by the learned JMIC, Exclusive Court N.I. Act, Hisar, however, he appeared before the Court of learned CJM, Hisar in the proceedings pending in complaint under Section 138 of NI Act and furnished his bail bonds/surety bonds, which were accepted vide order dated 31.01.2020 (Annexure P-3) followed by compromise having been effected between the parties, resulted into withdrawal of the complaint at the instance of respondent No. 2-complainant on 24.09.2021 (P-4).

[2.2] In support, learned counsel for the petitioner relies upon a judgment dated 09.03.2023 passed by Coordinate Bench of this Court in ***CRM-M-11846-2023***, titled ***“Sher Singh Versus State of Haryana”***.

[3] Learned State Counsel, while opposing the prayer made by the learned counsel for petitioner, contends that it was evident that the petitioner had intentionally not appeared during the proceedings before the Court below and hence, the prayer of the petitioner deserves to be declined.

[4] I have heard learned counsel for the parties and perused the record. I find substance in submissions made on behalf of learned counsel for the petitioner.

[5] The petitioner was declared as proclaimed person vide order dated 02.11.2019 (P-1 colly) in a complaint under Section 138 of the NI Act; however, later, he submitted himself before the Court and even furnished bail bonds and surety bonds on 31.01.2020. Admittedly, the said complaint was withdrawn after the parties arrived at a compromise. Furthermore, the petitioner was neither involved in any other criminal case nor was he declared a proclaimed offender / person any time prior thereto. Hence, the continuation of criminal proceedings under Section 174-A IPC would serve no useful purpose.

[6] Accordingly, the present petition is **allowed** and the order dated 02.11.2019 declaring the petitioner as proclaimed person as well as FIR (supra) registered under Section 174-A IPC and all consequential proceedings arising therefrom are set aside, subject to payment of costs of Rs.5,000/- by the petitioner to be deposited with the District Legal Services Authority, Hisar, within a period of one week from the date of receipt of certified copy of this order, which shall be a condition precedent.

[7] Pending miscellaneous application(s), if any, shall also stand disposed off.

March 06, 2024
'dk kamra'

(HARKESH MANUJA)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>