



123

**THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M No.50939 of 2024
Date of Decision:15.10.2024**

Yogendra Singh @ Yogender Singh **Petitioner**

Versus

State of Haryana and another **Respondents**

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Arav Gupta, Adocate
for the petitioner.

RAJESH BHARDWAJ, J. (ORAL)

1. Present petition has been filed under Section 482 Cr.P.C. for quashing the order dated 20.07.2018 (Annexure P-10) passed by the Court of learned JMIC, Gurugram in NACT No.5234 of 2017 dated Nil titled as ‘M/s Cholamandalam Investment and Finance Company Limited vs. Yogender Singh’ (Annexure P-2) whereby the petitioner has been wrongly declared as “proclaimed person” and all consequential proceedings arising therefrom including the registration of FIR No.1052, dated 20.11.2018, under Section 174-A of IPC, at Police Station Shivaji Nagar, Gurugram (Annexure P-11), the same being in complete violation of the statutory provisions as contained in Section 82 Cr.P.C. and the matter having been compromised between the parties and the entire amount due being paid and No Objection Certificate dated 10.07.2018 (Annexure P-12) being issued in favour of the petitioner and the entire proceedings being in contravention of the detailed guidelines pertaining



to proclamation as laid down by this Hon'ble Court in CRM-M-41656-2023; Pardeep Kumar versus State of Punjab and others, decided on 23.08.2023. Further prayer has been made for staying the operation and further proceedings emanating from the impugned order dated 20.07.2018 (Annexure P-10).

2. Precise submission made by learned counsel for the petitioner is that the petitioner was prosecuted in the complaint bearing NACT No.5234 of 2017 filed under Section 138 read with Section 141 of the Negotiable Instruments Act, 1881. He has submitted that the petitioner had duly resolved the issue with respondent No.2. He has submitted that respondent No.2-complainant also gave No Objection Certificate dated 10.07.2018 wherein it had been specifically stated by respondent No.2 that he has no objection in cancelling the loan endorsement made in their favour on the registration certificate of the vehicle. He has submitted that despite having been given the No Objection Certificate dated 10.07.2018, the petitioner was declared proclaimed person on 20.07.2018 i.e. 10 days thereafter. He has submitted that the petitioner remained under the bona fide belief that the matter has already been resolved and the complaint would be withdrawn by respondent No.2, however the same remained pending and the petitioner is now being prosecuted in FIR No.1052, dated 20.11.2018. He has submitted that as per settled principles of law, the complaint filed under Section 138 of the Negotiable Instruments Act is a compoundable offence and as evident the petitioner has already resolved the issue and



thus nothing survives in the complaint as well as the present FIR. He has fairly submitted that the petitioner is ready to appear before the trial Court where the complaint is now pending.

3. Notice of motion to official respondent No.1 only at this stage.

4. On the asking of the Court, Mr. Sumit Jain, Addl. A.G., Haryana accepts notice on behalf of the respondent-State. He on the other hand contends that the petitioner was rightly declared as a proclaimed person, pursuant to which FIR No.1052 dated 20.11.2018, under Section 174-A of IPC, at Police Station Shivaji Nagar, District Gurugram was registered against the petitioner and the petitioner is liable to be prosecuted in the said case, as he had failed to appear in the Court despite orders.

5. I have heard counsel for the parties and perused the record.

6. It is apparent that the present FIR was registered due to non-appearance of the petitioner in a complaint case filed under Section 138/142 of the Negotiable Instruments Act and he was declared as a proclaimed person in the proceedings under the Negotiable Instruments Act. Taking into consideration the controversy involved in the present case, this Court is of the opinion that the present case can be disposed of at this stage without issuance of notice to the opposite party as resorting to that would amount to abuse of the process of the Court especially when the matter i.e. original complaint under Section 138/141 NI Act has been compromised between the parties and the entire amount also stands



paid. So, keeping in view the above-said facts and the law settled, continuation of the proceedings under Section 174-A of IPC shall be abuse of the process of the Court.

7. This Court time and again has held that when the proceedings under Section 138 of NI Act stand compromised, then the continuation of FIR and proceedings under Section 174-A of IPC on account of petitioner having been declared as proclaimed offender would be nothing but an abuse of the process of law. This view was taken by the coordinate Bench of this Court in a case titled as “*Ashok Madan vs. State of Haryana and another*” reported as 2020(4) RCR (Criminal) 87, “*Anil Kumar Versus Jitender Kumar and another*”, CRM-M-5878-2022 decided on 06.04.2022 and “*Varinder Kumar @ Virender Kumar Versus State of Haryana and another*”, CRM-M-42551-2021 decided on 19.04.2022.

8. Consequently, the present petition is allowed. The order dated 20.07.2018 passed in Complaint Case bearing No.NACT-5234 of 2017 dated Nil whereby petitioner was declared Proclaimed Person by learned Judicial Magistrate Ist Class, Gurugram along with consequential proceedings arising out of the same including FIR No.1052 dated 20.11.2018, under Section 174-A of IPC, at Police Station Shivaji Nagar, District Gurugram, are hereby quashed subject to payment of costs of Rs.25,000/- to be deposited by the petitioner within 10 days from today with the ‘Society for the Care of Blind, Sector 26, Chandigarh’.



9. The petitioner is directed to file the receipt regarding deposit the above costs before the Court of learned Judicial Magistrate Ist Class, Gurugram within period of 15 days from today along with appropriate application and the learned Magistrate will proceed further in accordance with law. The petitioner will have protection from arrest in the present case for a period of 15 days.

10. Needless to say that in case the petitioner fails to pay the cost and comply with the aforesaid direction, the order under challenge dated 20.07.2018 and FIR No.1052 dated 20.11.2018 along with consequential proceedings would come in force and the present petition would be deemed to have been dismissed.

11. Disposed of.

15.10.2024

rittu

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No