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

**CRM-M No.58401 of 2024
Date of Decision: 22.11.2024**

Bijender Singh

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Ms. Monika, Advocate for
Mr. Ankit Chahal, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (ORAL)

1. Present petition has been filed praying for quashing of FIR No.262, dated 13.06.2023, under Section 174-A of Indian Penal Code, 1860, registered at Police Station Bhiwani City, District Bhiwani (Annexure P-1) and order dated 04.02.2020 (Annexure P-2) passed by the learned Judicial Magistrate Ist Class, Bhiwani in a criminal complaint No.COMA/644/2016 dated 01.08.2016 filed by respondent No.2 under Section 138 of Negotiable Instruments Act, 1881 vide which the petitioner was declared as proclaimed offender and directed that an FIR be registered against the petitioner, as well as all the subsequent proceeding emanating therefrom against the petitioner. Further prayer has



been made for staying the proceedings before the trial Court arising out of the aforementioned impugned FIR.

2. It has been submitted by learned counsel for the petitioner that the petitioner was prosecuted in the complaint filed under Section 138 of the Negotiable Instruments Act. She has submitted that during the pendency of the trial, the petitioner was declared as proclaimed offender vide impugned order dated 04.02.2020 passed by the learned Judicial Magistrate Ist Class, Bhiwani and the impugned FIR bearing No.262, dated 13.06.2023 was registered against the petitioner. She has further submitted that thereafter the petitioner and the complainant have amicably resolved the issues and thus entered into the compromise. She has submitted that thus on the basis of compromise, the complaint filed was dismissed as withdrawn vide order dated 31.01.2024. She has submitted that as the main complaint filed by the complainant under Section 138 of the Negotiable Instruments Act was dismissed as withdrawn vide order dated 31.01.2024, declaration of the petitioner as proclaimed offender vide impugned order dated 04.02.2020 and the impugned FIR registered under Section 174-A IPC would be totally an abuse of the process of the Court.

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

4. On the asking of the Court, Mr. Sumit Jain, Addl. A.G., Haryana accepts notice on behalf of respondent No.1-State.

5. Learned State counsel on the other hand contends that the petitioner was rightly declared as a proclaimed offender and pursuant to

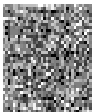


which FIR No.262 dated 13.06.2023, under Section 174-A of IPC, at Police Station Bhiwani City, District Bhiwani was registered against the petitioner and the petitioner is liable to be prosecuted in the said case, as he had failed to appear in the Court despite orders.

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

7. It is apparent that the present FIR was registered due to non-appearance of the petitioner in a complaint case filed under Section 138 of the Negotiable Instruments Act and he was declared as a proclaimed person in the proceedings under the Negotiable Instruments Act. As the main case i.e. complaint filed under Section 138 of the Negotiable Instruments Act already stands dismissed as withdrawn in view of the settlement between the parties, the continuation of the proceedings under Section 174-A of IPC would not serve any purpose as the root cause of controversy i.e. complaint under Section 138 of the Negotiable Instruments Act already stands dismissed as withdrawn. A 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 has also held as under:-

“No doubt, the learned counsel for the respondent has vehemently argued that the offence under Section 174A I.P.C. is independent of the main case, therefore, merely because the main case has been dismissed for want of prosecution, the present petition cannot be allowed, however, keeping in view the fact that the present FIR was registered only on account of absence from the proceedings in the main case which had been



subsequently regularised by the court while granting bail to the petitioner, the default stood condoned. In such circumstances, continuation of proceedings under Section 174A I.P.C. shall be abuse of the process of court.”

8. 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. Consequently, the present petition is disposed of and impugned order dated 04.02.2020 passed in Complaint Case bearing COMA/644/2016 dated 01.08.2016 whereby the petitioner was declared as Proclaimed Offender by the learned Judicial Magistrate Ist Class, Bhiwani along with all subsequent proceedings arising out of the same including the impugned FIR No.262, dated 13.06.2023, under Section 174-A of IPC, 1860, registered at Police Station Bhiwani City, District Bhiwani, are hereby quashed.

9. Disposed of.

22.11.2024

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(RAJESH BHARDWAJ)
JUDGE

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