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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-62924 of 2023 (O&M)
Date of Decision: 25.01.2024

RAJENDER KUMAR ALIAS RAJ KUMAR

... Petitioner

Versus

STATE OF HARYANA AND ANOTHER

... Respondents

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

Present:- Mr. Manish Gilhotra, Advocate with
Mr. Mandeep Singh, Advocate for
Mr. Vishal Mittal, Advocate for the petitioner.
Mr. Surender Singh, AAG, Haryana.

SANJIV BERRY, J. (ORAL)

CRM-891-2024

1. The instant application is for impleading Lovedeep Singh alias Lovedeep as respondent No.2.

2. Application is allowed. Lovedeep Singh alias Lovedeep is impleaded as respondent No.2. Registry to make necessary amendment in Memo of Parties.

Main case

1. In compliance of the order dated 18.01.2024 passed by this Court, learned counsel for the petitioner has placed on record the zimni orders passed in the case. The same are taken on record.

2. 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.1003 dated 09.11.2022 registered under Section 174-A at Police Station Sirsa City, District Sirsa (Annexure P-1) and all consequential proceedings arising out of the same.

3. In *nutshell*, the brief facts of the case are that petitioner for discharge of his pre-existing liability had issued cheque amounting to ₹81,643/-. On presentation of cheque the same was dishonoured and the complainant filed complaint under Section 138 of the Negotiable Instrument bearing No. NACT 81/2019 titled as “*Lovedeep vs. Dimple Trading Company*” against the petitioner and summons were issued and petitioner failed to appear before the Court and vide order dated 21.10.2022 (Annexure P-2) petitioner was declared as proclaimed person and case under Section 174-A IPC was registered and FIR No.1003 dated 09.11.2022, at Police Station Sirsa City, District Sirsa (Annexure P-1) was lodged against the present petitioner.

4. It is, *inter alia* contended by learned counsel for the petitioner that a compromise has been effected between the parties and complainant has withdrawn the complaint vide order dated 06.01.2023 (Annexure P-3). He submits that since the complaint in question has been withdrawn vide order dated 06.01.2023 (Annexure P-3) the impugned order stands culminated and continuation of the instant FIR on the basis of impugned order would be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 09.11.2022 (Annexure P-1) under Section 174-A IPC be quashed and consequential proceedings arising therefrom be also set aside.

5. 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 06.01.2023 (Annexure P-3).

6. I have heard the respective submission made by the learned counsel for the parties.

7. 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 21.10.2022 (Annexure P-2) in the said complaint and on the basis thereof, the impugned FIR No.1003 dated 09.11.2022 (Annexure P-1) was registered against him. It is not disputed that the aforesaid complaint has since been withdrawn by the complainant vide order dated 06.01.2023 (Annexure P-3) 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.

8. 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 21.10.2022 (Annexure P-2) and the complaint has already been dismissed as withdrawn vide order dated 06.01.2023 (Annexure P-3), 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.

9. Consequently, keeping in view the above said facts and circumstances, the present petition is allowed, impugned FIR No. 1003 dated 09.11.2022 registered under Section 174-A at Police Station Sirsa City, District Sirsa and all consequential proceedings arising therefrom are hereby set aside.

10. Petition stands allowed.

(SANJIV BERRY)

JUDGE

25.01.2024

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