



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M No. 63787 of 2023 (O&M)
Date of Decision: 13.05.2024

Boota Singh

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Jagjit Singh Gill, Advocate,
for the petitioner.

Mr. Siddharath Sandhu, Assistant Advocate General, Punjab
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 order dated 18.09.2023 (Annexure P-1) passed by learned Judicial Magistrate 1st Class, Dasuya in complaint case CIS No. NACT/155/2022, dated 01.06.2022, titled “*Avtar Singh Tulli Versus Boota Singh etc.*”, whereby he was declared as proclaimed person, and all consequential proceedings arising therefrom, in view of the complaint in question having been dismissed as withdrawn vide order dated 09.12.2023 (Annexure P-4).

[2] At the outset, learned counsel for the petitioner has drawn the attention of this Court to order dated 09.12.2023 (P-4) wherein the complaint in question under Section 138 of the Negotiable Instruments Act, 1881 (**for short, 'the NI Act'**) stands withdrawn by the complainant based on an

amicable settlement arrived at between the parties and the petitioner having made payment of the settled 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 person prior thereto in any other case.

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] As per office report, notice issued to respondent No. 2 / complainant has not been received back either served or otherwise. In the humble opinion of this Court, since the matter pertains to quashing of proclamation order as well as consequential proceedings arising out therefrom, the same being between the petitioner and the Court, service of respondent No. 2 / complainant would not be necessary, as the outcome of these proceedings may not directly prejudice to his rights.

[4] Learned State Counsel has filed reply by way of affidavit dated 29.04.2024 of Sh. Harjit Singh, PPS, DSP, Sub-Division Tanda, District Hoshiapur, which is taken on record. Copy thereof supplied to the opposite side. He opposes the prayer made by the learned counsel for petitioner, while contending 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 deserved to be declined.

[5] 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.

[6] The petitioner was declared as proclaimed person vide impugned order dated 18.09.2023 (P-1) in a complaint case under Section 138 of the NI Act. 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.

[7] Accordingly, the present petition is **allowed** and the impugned order dated 18.09.2023 (P-1) declaring the petitioner as proclaimed person and all consequential proceedings arising therefrom are set aside, subject to providing a big air cooler by the petitioner at the Gynecology Department, PGIMER, Chandigarh, within a period of two weeks from the date of receipt of certified copy of this order, which shall be a condition precedent.

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

May 13, 2024

'dk kamra'

**(HARKESH MANUJA)
JUDGE**

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