



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

**CRM-M No.18616 of 2025
Date of Decision: 04.04.2025**

Billa @ Goldy

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Ankur Bansal, Adocate
for the petitioner.

RAJESH BHARDWAJ, J. (ORAL)

1. Present petition has been filed for quashing of impugned FIR No.160 dated 22.06.2022, under Section 174-A IPC, 1860, registered at Police Station Phillaur, District Jalandhar arising out of order dated 04.05.2022 passed by the learned Sub Divisional Judicial Magistrate, Phillaur, District Jalandhar in case NACT-312 of 2019 titled as Harmesh Sharma Vs. Billa @ Goldy filed under Section 138 of Negotiable Instruments Act along with subsequent proceedings thereon as the continuation of the proceedings would tantamount to a gross abuse of process of law resulting in a grave miscarriage of justice.

2. Learned counsel for the petitioner has contended that respondent No.2 had filed complaint under Section 138 of the Negotiable Instruments Act on the allegation that the petitioner borrowed a sum of Rs.10,000/- from complainant-Harmesh Sharma and as security of the said amount, one cheque was given to the complainant. It is submitted that petitioner kept on paying the interest on the borrowed amount and later on,



due to some financial constraints, petitioner could not pay the interest as well as his installments. He submits that thereafter, complainant presented that cheque for an amount of Rs.10,000/- in the bank however, the said cheque was dishonoured. Thereafter, complainant has filed the complaint bearing NACT-312 of 2019 under Section 138 of the Negotiable Instruments Act, 1881 against the petitioner. He submits that the summons were never served upon the petitioner nor he was apprised about the proceedings under Section 138 of the NI Act. He submits that the non-bailable warrants were issued against the petitioner and consequently, he was declared as proclaimed person. He submits that thereafter, petitioner appeared before the learned trial Court and was admitted to bail. Subsequently, the matter was compromised with the complainant and petitioner paid the entire cheque amount of Rs.10,000/- to the complainant. He submits that since the matter stood settled between the petitioner and the complainant and entire cheque amount stood paid to him, the complainant did not appear in the case the complaint was dismissed on 21.07.2023. He submits that since the petitioner appeared in the case and was admitted to bail by learned trial Court and subsequently, the case was dismissed by learned trial Court, the impugned FIR cannot sustain in the eyes of law and continuation of the present proceedings would amount to abuse of the process of law.

3. Notice of motion.

4. On the asking of the Court, Mr. Tarun Aggarwal, Senior DAG, Punjab 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.160 dated 22.06.2022, under Section 174-A IPC, 1860, registered at Police Station Phillaur, District Jalandhar 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 person 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. FIR No.160 dated 22.06.2022, under Section 174-A IPC, 1860, registered at Police Station Phillaur, District Jalandhar is hereby quashed subject to payment of costs of Rs.10,000/- 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 Sub Divisional Judicial Magistrate, Phillaur, District Jalandhar within period of 15 days from today. Needless to say that in case the petitioner fails to pay the cost and comply with the aforesaid direction, the FIR No.160 dated 22.06.2022, under Section 174-A IPC, 1860, registered at Police Station Phillaur, District Jalandhar along with consequential proceedings would come in force and the present petition would be deemed to have been dismissed.

10. Disposed of.

04.04.2025

m.sharma

(RAJESH BHARDWAJ)
JUDGE

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