



CRM-M No.28741 of 2024 (O&M)

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

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CRM-M No.28741 of 2024 (O&M)

Date of Decision: 31.05.2024

SUSHIL KUMAR

....Petitioner

Vs

STATE OF HARYANA AND ANOTHER ...Respondents

CORAM: *HON'BLE MR. JUSTICE HARKESH MANUJA*

Present: Mr. Arun Kumar Gupta, Advocate
for the petitioner.

HARKESH MANUJA, J. (Oral)

[1]. By way of present petition filed under Section 482 Cr.P.C., prayer has been made for quashing of order dated 31.07.2023 passed by the Addl. Sessions Judge, Bhiwani vide which the petitioner was declared as proclaimed person followed by registration of FIR No.27 dated 06.02.2024 registered under Section 174-A IPC at Police Station Industrial Area, Bhiwani, District Bhiwani, Haryana.

[2]. Briefly stating, having failed to join the proceedings in an appeal before the Addl. District and Sessions Judge, Bhiwani proceedings under Section 82 Cr.P.C. were ordered against petitioner and as a consequence thereof, he was declared as proclaimed person vide order dated 31.07.2023 passed by the Addl. Sessions Judge, Bhiwani, followed by registration of FIR No.27 dated 06.02.2024 under Section 174-A IPC.

[3]. Impugning the aforementioned order as well as the FIR, learned counsel for the petitioner submits that in an appeal preferred against the judgment of conviction and order of sentence dated 05.02.2019/07.02.2019, the sentence of the petitioner was suspended till decision of the appeal and thereafter the petitioner



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was regularly appearing before the Trial Court. However, due to Covid-19 Pandemic, he could not appear on some dates and thereafter was not aware about the case and ultimately the proclamation under Section 82(1) Cr.P.C. was issued against him. He further points out that, later a settlement came to be arrived at between the parties as petitioner had discharged his liability by paying the entire cheque amount in favour of complainant and in pursuance thereof, the offence under Section 138 of the N.I. Act was compounded. Accordingly, the impugned judgment of conviction and order of sentence was set aside by the Addl. Sessions Judge, vide order dated 08.04.2024 thereby acquitting the petitioner from the charges levelled against him.

[4]. Learned counsel further submits that once the main proceedings under Section 138 of the N.I. Act have already come to an end, no useful purpose is going to be served by continuing with the proceedings arising out of the FIR in question. In support, he relies upon judgments of this Court, passed in **CRM-M No.16449 of 2018** titled as "**Satish Kumar vs. State of Haryana and another**" and **CRM-M No.30911 of 2021**, titled as "**Ram Kumar Rana vs. State of Haryana and another**".

[5]. Notice of motion.

[6]. On asking of the Court, Mr. Rajiv Sidhu, D.A.G., Haryana accepts notice on behalf of the respondent/State. Mr. H.S. Dhillon, Advocate appears on behalf of the respondent No.2/complainant and files his power of attorney, which is taken on record.

[7]. Learned State counsel opposes the prayer made on behalf of petitioner while submitting that he was having knowledge of pendency of proceedings under Section 138 of the N.I. Act, but he deliberately chose not to appear before the Trial



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Court resulting into his declaration as proclaimed person followed by registration of FIR against him.

[8]. On the other hand, learned counsel representing respondent No.2/complainant admits the factum of compromise between the parties and raised no objection against the prayer made by the petitioner.

[9]. I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the petitioner.

[10]. Once, the office under Section 138 of the 1881 Act, already stands compounded by respondent No.2/complainant on having received the entire cheque amount in dispute, no useful purpose is going to be served by carrying on with the proceedings arising out of the present FIR. Even otherwise, the case of petitioner is fully covered with the judgments passed by this Court in Satish Kumar and Ram Kumar Rana's cases (supra). Moreover, on the basis of settlement arrived at between the parties and payment of entire cheque amount to respondent No.2, the appeal preferred by the petitioner against the judgment of conviction and order of sentence stands allowed, thereby acquitting the petitioner from the charges levelled against him.

[11]. In view of discussion made hereinabove, the present petition is allowed and the order dated 31.07.2023 passed by the Addl. Sessions Judge, Bhiwani, declaring petitioner as proclaimed person is set aside. The FIR No.27 dated 06.02.2024 registered under Section 174-A IPC at Police Station Industrial Area, Bhiwani, District Bhiwani, Haryana along with all consequential proceedings arising therefrom is also quashed.

[12]. The aforesaid order, however, shall be subject payment of cost(s) of Rs.5,000/- to be deposited with Nishkam Sewa Group (For Charitable Work) Run



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by Punjab & Haryana High Court Lawyers at Chandigarh within a period of two weeks from today. The copy of receipt shall also be produced before the Trial Court.

(HARKESH MANUJA)
JUDGE

May 31, 2024

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