(1983) 12 P&H CK 0002

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 4629-M of 1983 & Criminal Miscellaneous No. 4629M of 1984

Vijay Kumar APPELLANT

Vs

Income Tax Officer RESPONDENT

Date of Decision : 14-12-1983

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Income Tax Act, 1961 — Section 271, 273A, 276C, 277, 279(1A)
Penal Code, 1860 (IPC) — Section 193, 196

Citation : (1984) 17 TAXMAN 202

Hon'ble Judges : J.M. Tandon, J

Bench : Single Bench

Advocate : Ashok Aggarwal, for the Appellant; Ashok Bhan and A.K. Mittal, for the Respondent

Judgement

J.M. Tandon, J.—Vijay Kumar, the petitioner, is being prosecuted under sections 276C, 277 of the income tax Act, 1961 (''the Act''), and section 193/196 of the Indian Penal Code, in the Court of Chief Judicial Magistrate, Ludhiana, on a complaint dated 29-3-1982 (p. 1), filed by the ITO. The petitioner moved the trial court for dropping the criminal proceedings against him, which prayer has been declined by the Chief Judicial Magistrate vide order dated 18-8-1983 (p. 2).

The petitioner has moved the present petition u/s 482 of the Criminal Procedure Code, praying that the complaint made against him by the ITO as also the criminal proceedings pending in the Court of the Chief Judicial Magistrate, Ludhiana, be quashed.

Section 279 (1A) of the Act reads : A person shall not be proceeded against for an offence u/s 276C or section 277 in relation to the assessment for an assessment year in respect of which the penalty imposed or imposable on him under clause (iii) of subsection (1) of section 271 has been reduced or waived by an order u/s 273A.

The learned counsel for the petitioner has contended that in the absence of an order against the petitioner u/s 273A, he cannot be prosecuted u/s 276C or section 277. The contention is without merit. It is admitted that no proceedings u/s 273A of the Act have so far been initiated. There should be no legal bar for the prosecution of the petitioner u/s 276C or section 277 in the absence of a favourable decision for him u/s 273A.

Dismissed in limine.

