

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

CRM-M-19233 of 2015.
Decided on:- October 31, 2018.

Mohinder Singh Narula.

.....Petitioner.

Versus

State of Haryana and another

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. R.S. Rai, Senior Advocate with
Mr. Kunal Dawar, Advocate
for the petitioner.

Mr. Anmol Malik, A.A.G., Haryana.

Mr. Jagjot Singh Sidhu, Advocate
for respondent No.2-complainant.

HARI PAL VERMA, J.

The petitioner has filed present petition under Section 482 Cr.P.C. for quashing of FIR No.66 dated 14.02.2015 under Section 174-A IPC (Annexure P-1) registered at Police Station Sector-40, Gurugram (erstwhile Gurgaon) along with all proceedings emanating therefrom.

Prayer has also been made for setting aside the order dated 22.08.2014 (Annexure P-4) passed by learned Judicial Magistrate 1st Class, Gurugram in criminal complaint under Section 138 of the Negotiable Instruments Act, 1881 (for short, the Act) titled as "M/s HARD STONE

Versus M/s DSC Ltd. and another” vide which bail of the petitioner was cancelled, surety bonds were forfeited and he was ordered to be summoned through non-bailable warrants.

The petitioner has also prayed for quashing of the order dated 01.12.2014 (Annexure P-5) passed by learned Judicial Magistrate 1st Class, Gurugram vide which the petitioner has been declared as a proclaimed person and a direction was issued to the police to register the aforementioned FIR under Section 174-A against the petitioner.

Learned senior counsel for the petitioner has contended that since the matter was compromised between the parties and the respondent No.2-complainant had received the full and final payment from the petitioner-accused, the aforesaid complaint filed by the complainant under Section 138 of the Act was dismissed as withdrawn vide order dated 20.05.2015 (Annexure P-6) passed by learned Judicial Magistrate 1st Class, Gurugram.

He has further contended that due to business exigency, the petitioner could not appear before the trial Court on 22.08.2014, which led to cancellation of his bail. Thereafter, the matter had been compromised between the parties and the complaint filed by respondent No.2-complainant was dismissed as withdrawn vide order dated 20.05.2015 passed by learned trial Court. The petitioner was not aware about the proceedings which led to registration of the FIR under Section 174-A IPC. He has, therefore, prayed that since the very complaint under Section 138 of the Act has been dismissed as withdrawn, the FIR in question under Section 174-A IPC as well as all the subsequent proceedings arising therefrom including the impugned orders

dated 22.08.2014 and 01.12.2014 passed by learned trial Court may be quashed.

The factum of dismissal of the complaint under Section 138 of the Act as withdrawn on the basis of compromise between the parties has not been disputed by learned counsel for respondent No.2-complainant. On the strength of reply by way of affidavit submitted by the respondent No.2-complainant, it is submitted that he has no objection in case the orders dated 22.08.2014 and 01.12.2014 passed by learned trial Court as well as the FIR (Annexure P-1) are quashed.

I have heard learned counsel for the parties.

Perusal of the paper book shows that vide order dated 20.05.2015 passed by learned trial Court, the complaint under Section 138 of the Act filed by respondent No.2-complainant was dismissed as withdrawn as the matter had been compromised and the complainant had received full and final payment from the petitioner-accused. The proceedings against the accused were dropped in the complaint.

Moreover, the reply by way of affidavit furnished by the respondent No.2-complainant before this Court reveals that the complaint was filed by the respondent No.2 as the cheque amounting to Rs.17 lakh furnished by the petitioner was dishonoured. During the pendency of the complaint, the petitioner had returned the amount of Rs.17 lakh to the respondent No.2 by way of two demand drafts for Rs.10 lakh and 7 lakh respectively and all financial disputes between the parties were settled.

Thus, when the complaint under Section 138 of the Act has already been dismissed as withdrawn being compromised between the parties, this Court finds that continuation of criminal proceedings against the petitioner under Section 174-A IPC would be unwarranted.

Consequently, the impugned orders dated 22.08.2014 and 01.12.2014 (Annexures P-4 and P-5 respectively) passed by learned Judicial Magistrate 1st Class, Gurugram are set aside and FIR No.66 dated 14.02.2015 under Section 174-A IPC (Annexure P-1) registered at Police Station Sector-40, Gurugram (erstwhile Gurgaon) as well as all subsequent proceedings arising therefrom are quashed qua the petitioner, however, subject to payment of costs of Rs.25,000/- by the petitioner to the Poor Patients' Welfare Fund of the Postgraduate Institute of Medical Education and Research (PGIMER), Chandigarh as the petitioner has not been able to show any sufficient reason for non-appearance before the trial Court.

The petition is, accordingly, allowed in these terms.

October 31, 2018

Yag Dutt

**(HARI PAL VERMA)
JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No