

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

CRM-M No.31208 of 2017

Date of decision: 23.05.2018

Inderpal

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Sudhir Rana, Advocate
for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for setting-aside the order dated 18.05.2017 (Annexure P6) vide which the petitioner was charge-sheeted for offence punishable under Section 174-A IPC as well as the order dated 26.07.2017 (Annexure P7) vide which the revision filed against the order dated 18.05.2017 was also dismissed by the Revisional Court and for quashing of FIR No.117 dated 13.02.2017 (Annexure P5) registered under Section 174-A IPC at Police Station Model Town, Rewari, District Rewari.

Brief facts of the case are that one Usha Gupta filed a complaint under Section 138 of the Negotiable Instruments Act against the petitioner on account of dishonouring of a cheque.

During the pendency of the said petition, the petitioner was declared a proclaimed offender vide order dated 11.01.2017 (Annexure P1) and it was also directed that an FIR be got registered under Section 174-A IPC.

In pursuance to the said order, the impugned FIR No.117

dated 13.02.2017 (Annexure P5) was registered against the petitioner.

Counsel for the petitioner has submitted that the complaint filed under Section 138 of the Negotiable Instruments Act has been withdrawn by the complainant in pursuance to the compromise dated 08.04.2017 arrived at between the petitioner and the complainant. The trial Court has also recorded the statement of the complainant dated 30.03.2017 (Annexure P2) that she has received the entire amount and the complaint be dismissed as withdrawn.

Counsel for the petitioner has further submitted that later on, the petitioner has appeared before the trial Court on 21.03.2017 and he was granted bail. Counsel for the petitioner has relied upon the judgment ***“Microqual Techno Limited and others vs State of Haryana and another”***, 2015(32) RCR (Criminal) 790, wherein in similar circumstances, this Court has held that when an FIR is registered under Section 174-A of the Code on account of the fact that the accused person is declared as proclaimed offender and later on, in the proceedings under the Negotiable Instruments Act, the matter has been compromised and the complaint stood compromised, the continuation of the proceedings under Section 174-A of the Code will be nothing but an abuse and misuse of process of law and the FIR was quashed.

In the instant case, it is submitted by the petitioner that since the petitioner has already appeared before the trial Court and the order declaring him as proclaimed offender is rendered nullified. The complaint has been withdrawn by the complainant, on receiving the entire payment, the prosecution of the petitioner under Section 174-A IPC will not serve any purpose as it was registered on direction of the trial Court while declaring him a proclaimed offender.

Counsel for the State, on instructions from HC Kapoor Singh, has not disputed the factual position and has submitted that the case is still at initial stage as no evidence has been recorded, so far.

After hearing counsel for the parties, I find merit in the present petition. It is not disputed that the petitioner has already appeared before the trial Court and was granted bail and later on, he has compromised with the complainant who had filed the complaint under Section 138 of the Negotiable Instruments Act and later on it was withdrawn by the complainant – Usha Gupta. Therefore, in view of the judgment passed by this Court in Microqual Techno Limited and others case (supra), this petition is allowed, the impugned order dated 18.05.2017 (Annexure P6) as well as the order dated 26.07.2017 (Annexure P7) passed by the Revisional Court are set-aside and FIR No.117 dated 13.02.2017 (Annexure P5) registered under Section 174-A IPC at Police Station Model Town, Rewari, District Rewari is ordered to be quashed.

(ARVIND SINGH SANGWAN)
JUDGE

23.05.2018
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No