

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

CRM-M-12404-2019
Reserved on : 03.05.2019
Date of decision: 07.05.2019

Nizamuddin, Director of M/s Enterprises Pvt. Ltd. ...Petitioner

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Saleem Ahmed, Advocate
for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J.

Prayer in this petition is for quashing of FIR No. 902 dated 13.12.2017, registered under Section 174-A IPC at Police Station Sector 58, District Faridabad along with all the subsequent proceedings arising therefrom.

Brief facts of the case are that a complaint under Section 138 of the Negotiable Instruments Act, 1881 (*for short 'N. I. Act'*) was filed by Ayan Enterprises on account of dishonouring of a cheque given by the petitioner, however, later on, a compromise was effected between the petitioner and complainant Ayan Enterprises and after the petitioner cleared the cheque amount, the Judicial Magistrate First Class, Faridabad, vide order dated 14.05.2018 (Annexure P-2), compounded the offence and disposed of the aforesaid complaint.

Learned counsel for the petitioner has submitted that in the meantime, on account of non-appearance of petitioner before the trial Court,

the aforesaid FIR was registered with the allegations that petitioner has failed to appear in the said proceedings despite being served with a notice.

Learned counsel for the petitioner has further submitted that in fact the petitioner was in a process of effecting the compromise with the complainant and he was under a *bona fide* impression that the complaint would be withdrawn and the same was withdrawn on 14.05.2018, therefore, the petitioner could not appear before the trial Court.

Noticing the aforesaid facts, while issuing notice of motion and granting interim bail to the petitioner on 18.03.2019 in the same terms of connected petition bearing CRM-M-11228-2019, the petitioner was directed by this Court to appear before the Investigating Officer and to deposit the cost of ₹10,000/- with the Illaqua Magistrate.

Learned counsel for the petitioner has submitted that in compliance with the order dated 18.03.2019, the petitioner has already appeared before the Investigating Officer and has also deposited the cost of ₹10,000/- with the Illaqua Magistrate. A receipt, in this regard, has also been placed on record.

Learned counsel for the petitioner has relied upon the decisions rendered by this Court in ***Vikas Sharma vs. Gurpreet Singh Kohli and another (supra), 2017, (3) L.A.R. 584, Microqual Techno Limited and others Vs. State of Haryana and another, 2015 (32) RCR (Crl.) 790 and Rajneesh Khanna Vs. State of Haryana and another” 2017(3) L.A.R. 555,*** wherein, in an identical circumstance, this Court has held that since the main petition filed under Section 138 of the N.I. Act stands withdrawn in view of an amicable settlement between the parties, therefore, continuation of proceedings under Section 174-A of IPC shall be nothing but an abuse of

the process of law.

Learned State counsel, on instructions from the Investigating Officer, has not disputed the factual position.

After hearing learned counsel for the parties and in view of the judgment passed in **Vikash Sharma (supra)** case, considering the fact that the complaint filed under Section 138 of the Act was compromised as the petitioner has paid the entire cheque amount to the complainant and later on the same was withdrawn on 14.05.2018, I find merit in present petition as the petitioner has also shown a *bona fide* cause for non-appearance before the trial Court on the date when the case was fixed. Moreover, on the direction of this Court, the petitioner has already appeared before the Investigating Officer and has also deposited the cost of ₹10,000/- with the Illaqua Magistrate, hence, this Court is of the opinion that continuation of proceedings under Section 174-A IPC shall be an abuse of process of law.

Accordingly, this petition is allowed and FIR No. 902 dated 13.12.2017, registered under Section 174-A IPC at Police Station Sector 58, District Faridabad along with all the subsequent proceedings arising therefrom is hereby quashed qua the petitioner herein.

07.05.2019

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No