

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

1. CRM-M-21242-2018**Ved Parkash****...Petitioner****Versus****State of Haryana****...Respondent**

2. CRM-M-21226-2018**Ved Parkash****...Petitioner****Versus****State of Haryana****...Respondent**

Reserved on : 17.05.2019
Pronounced on : 21.05.2019

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Amit Gupta, Advocate
for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

ARVIND SINGH SANGWAN, J.

This order shall dispose of above noted two criminal miscellaneous petitions as they arise out the same proceedings.

Prayer in these petitions is for quashing of FIR No. 252 dated 26.10.2015 and FIR No. 176 dated 22.08.2017, both registered under Section 174-A IPC at Police Station Kosli, District Rewari, on the basis of the compromise dated 12.01.2018, entered into between the parties, and also in view of the order dated 20.02.2018, passed by this Court in ***CRR-522-2018***.

Brief facts of the case are that complainant Ram Niwas had filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 (*for short 'N.I. Act'*) against petitioner Ved Parkash on account of dishonouring of a cheque of ₹2,05,000/-. The petitioner faced the trial and was convicted under Section 138 of the N.I. Act and sentenced to undergo simple imprisonment for a period of six months as well as to pay a fine of ₹3,00,000/- to the complainant, vide judgment of conviction dated 11.03.2016 and order of sentence dated 14.03.2016.

The appeal filed by the petitioner against the aforesaid judgment of conviction and order of sentence was dismissed by the lower appellate Court. Hence, the petitioner filed a criminal revision petition bearing **CRR-522-2018** before this Court and during the pendency of the revision before this Court, a compromise was effected between the parties (Annexure P-3) and on the basis of the said compromise, while disposing of the revision petition on 20.02.2018 (Annexure P-4), it was observed by this Court that since the petitioner-accused has made the lump sum payment and the complainant is satisfied, the revision petition was disposed of with the observation that the sentence awarded to the petitioner is reduced to the sentence already undergone by him. However, in the meantime, on account of the direction, given by the trial Court that the petitioner has absented from the court proceedings and has been declared a proclaimed offender, the impugned FIR No. 252 was registered against him under Section 174-A IPC and thereafter, he was again declared a proclaimed offender even in the proceedings under the FIR No. 252 leading to registration of another FIR i.e. FIR No. 176 under Section 174-A IPC.

Learned counsel for the petitioner has argued that since the

matter has amicably been settled between the parties; the petitioner has a poor financial background and has made the payment only after making arrangements for the amount, therefore, the pendency of the present FIRs is nothing but the misuse of the process of law as the very purpose of the registration of the FIRs was to procure the presence of the petitioner.

Learned counsel for the petitioner has further argued that after the decision of the appeal in the present case, the petitioner remained in judicial custody for a long time and that is why, his sentence was reduced by this Court to the period already undergone by him.

Learned counsel for the petitioner has relied upon the judgments rendered by this Court in **2015 (32) R.C.R. (Criminal) 790, Microqual Techno Limited and others vs. State of Haryana and another** and **2017 (2) R. C. R. (Criminal) 47 Sher Singh vs. State of Haryana**, wherein it has been held that wherein an FIR is registered under Section 174-A IPC on account of the accused having been declared a proclaimed offender and subsequently the accused stands discharged on the basis of the compromise in the proceedings under Section 138 of the N.I. Act, the continuation of the prosecution of the accused under Section 174-A IPC would be nothing but an abuse of the process of law.

In reply, learned State counsel, on the basis of the reply filed by way of the affidavit of DSP, Kosli, Rewari, could not dispute the factual position, however, submitted that two FIRs were registered under Section 174-A IPC against the petitioner, two times on account of absents from the court proceedings. Learned State counsel, however, has admitted that in criminal revision petition, filed by the petitioner, there was a compromise between the parties and the sentence of the petitioner was reduced to the

sentence already undergone by him.

After hearing learned counsel for the parties, I find that the petitioner has undergone substantive sentence in the proceedings under Section 138 of the N. I. Act after the appeal was dismissed by the trial Court. Thereafter, the petitioner made the payment to the complainant who entered into a compromise with the petitioner after his claim was satisfied and on the basis of the same, the sentence of the petitioner was reduced to the period already undergone by him.

Accordingly, in view of the facts and circumstance of the case and also in view of the judgments relied upon by the petitioner, these petitions are allowed and FIR No. 252 dated 26.10.2015 and FIR No. 176 dated 22.08.2017, both registered under Section 174-A IPC at Police Station Kosli, District Rewari are hereby quashed along with all the subsequent proceedings, however, subject to payment of costs of ₹3,000/- to be deposited with the District Legal Services Authority, Rewari.

A photocopy of this order be placed on the file of other connected case.

21.05.2019

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No