

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

CRM-M-17162-2019
Reserved on : 03.05.2019
Date of decision: 07.05.2019

Madan Kavar and another

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

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

Mr. Deepak Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J.

Prayer in this petition is for quashing of FIR No. 303 dated 10.05.2018, 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 petitioners, however, later on, a compromise was effected between the petitioners and complainant Ayan Enterprises and after the petitioners cleared the cheque amount, the Judicial Magistrate First Class, Faridabad, vide order dated 17.08.2018 (Annexure P-2), compounded the offence and disposed of the aforesaid complaint.

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

Court, the aforesaid FIR was registered with the allegations that petitioners have failed to appear in the said proceedings despite being served with a notice.

Learned counsel for the petitioners has further submitted that in fact the petitioners were in a process of effecting the compromise with the complainant and they were under a *bona fide* impression that the complaint would be withdrawn and the same was withdrawn on 17.08.2018, therefore, the petitioners could not appear before the trial Court.

Noticing the aforesaid facts, while issuing notice of motion and granting interim bail to the petitioners on 12.04.2019 in the same terms of connected petition bearing CRM-M-11228-2019, the petitioners were directed by this Court to appear before the Investigating Officer and to deposit the cost of ₹2,000/- each with the Illaqua Magistrate.

Learned counsel for the petitioners has submitted that in compliance with the order dated 12.04.2019, the petitioners have already appeared before the Investigating Officer and have also deposited the cost of ₹2,000/- each with the Illaqua Magistrate. A receipt, in this regard, has also been placed on record.

Learned counsel for the petitioners 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 petitioners have paid the entire cheque amount to the complainant and later on the same was withdrawn on 17.08.2018, I find merit in present petition as the petitioners have 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 petitioners have already appeared before the Investigating Officer and have also deposited the cost of ₹2,000/- each 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. 303 dated 10.05.2018, 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 petitioners herein.

07.05.2019

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No