

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

CRM-M No.36373 of 2018

Date of decision: 27.02.2019

Jaswant Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. H.S. Sandhu, Advocate
for the petitioner.

Mr. Sidakmeet S. Sandhu, AAG, Punjab.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for quashing of FIR No.138 dated 20.07.2016 registered under Section 174-A IPC at Police Station Fatehgarh Sahib, District Fatehgarh Sahib.

Counsel for the petitioner has submitted that the petitioner was facing prosecution in a complaint under Section 138 of the Negotiable Instruments Act, pertaining to dishonour of a cheque. Thereafter, the petitioner entered into a compromise with the complainant and on 25.07.2018, the complainant – Sukhwinder Singh appeared through his counsel and made a statement that the matter has been compromised and accordingly, the complaint was dismissed as withdrawn on the same date.

Counsel for the petitioner has further submitted that the present FIR has been registered on the direction of the trial Court that during the pendency of the said complaint, the petitioner was declared as proclaimed offender and therefore, the FIR under Section 174-A IPC be registered and, thus, on such direction, the impugned FIR has been registered. It is further submitted that, in fact, the petitioner was not aware of the proceedings and on payment of the amount of Rs.25,000/-, the complainant has already withdraw the complaint on 25.07.2018 and, therefore, the petitioner had no occasion to appear before the trial Court and apply for bail. Counsel for the petitioner has relied upon the

judgment “*Rahul Dutta vs State of Haryana*”, 2012(2) RCR (Criminal) 585 whereby this Court has held that in such circumstances, where the main complaint filed under Section 138 of the Negotiable Instruments Act stands dismissed as withdrawn on the basis of the compromise, the pendency of the proceedings in pursuance to the FIR registered under Section 174-A IPC will be nothing but abuse and misuse of process of law.

Counsel for the State, on instructions from ASI Swaraj Singh, has not disputed the fact that the complaint under Section 138 of the Negotiable Instruments Act was withdrawn on 25.05.2018, on the basis of the statement made by the complainant and the present FIR has been registered on account of the fact that the petitioner was declared as proclaimed offender.

After hearing the counsel for the parties, I find merit in the present petition. Since, the lis between the petitioner and the complainant in the complaint under Section 138 of the Negotiable Instruments Act, stands compromised and the complaint was withdrawn, I find that no purpose will be served if the petitioner is directed to face the prosecution in the present FIR and accordingly, this petition is allowed and the FIR No.138 dated 20.07.2016 registered under Section 174-A IPC at Police Station Fatehgarh Sahib, District Fatehgarh Sahib, is quashed *qua* the petitioner.

(ARVIND SINGH SANGWAN)
JUDGE

27.02.2019

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No