

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

CRM-M-49110-2017

Date of decision: December 02, 2019

Ammy Anand and another

....Petitioners

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. G.S. Dhillon, Advocate
for the petitioner.

Mr. Jagmohan Ghumman, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer this petition is for quashing of FIR No.9 dated 29.1.2017 registered under Sections 420 and 120-B IPC at Police Station Division No.8, Ludhiana and all other subsequent proceedings arising therefrom.

Counsel for the petitioner submits that as per the allegations in the FIR registered at the instance of Savinder Singh, his friend Jassa has introduced with the petitioner/accused for sending him abroad and in that process he has paid an amount of Rs.6,58,053/- to the petitioner.

Having failed to send him abroad, the petitioner had given a cheque of Rs.4,88,000/- and cash of Rs.1,70,000/- to the complainant and on the basis of the same, the complainant had filed a complaint under Section 138 of the Negotiable Instruments Act, before the Judicial Magistrate 1st Class, Ludhiana on 7.5.2016. The petitioner was summoned

in the complaint and on 6.11.2017, the same was disposed of by passing the following order :-

“Heard. Today the complainant has received remainder amount from the ld. Counsel for the accused in the shape of demand draft bearing No.000574 dated 6.11.2017 worth Rs.48,000/-. He suffered a statement in lieu of its receipt and also stated that now nothing is due against the accused qua the cheque in dispute and that he does not want to proceed with the present complaint and requested for withdrawing the same.

In view of the above statement so suffered by the complainant, the present complaint is hereby dismissed as withdrawn being compromised. Accused stands acquitted. Her surety stands discharged. File be consigned to the judicial record room, Ludhiana after due compliance.

Pronounced in open Court
Date 6.11.2017

Anoop Singh
Judicial Magistrate 1st Class
Ludhiana/UID # PB0364”

Counsel for the petitioner submits that the impugned FIR has been registered on the set of allegations as the petitioner has already cleared the entire payment, which was due towards the complainant. Counsel for the petitioner submits that the challan was presented in this case on 23.10.2017 and immediately thereafter, the complaint under Section 138 of the Act was withdrawn on clearing the entire payment.

Learned State counsel, on instructions from ASI Dara Singh assisted by the counsel for the complainant has not disputed the factual position that the petitioner has already cleared the amount due towards the

complainant and he stands acquitted/discharged by the Court in the proceedings initiated against him under Section 138 of the Act.

Counsel for the petitioner has relied upon the judgment passed by the Hon'ble Supreme Court in **"G. Sagar Suri Vs. State of U.P.", 2000(1) RCR (Criminal) 707**, wherein it has been held that where the parties have resorted proceedings under Section 138 of the Act for dishonouring of a cheque and has also initiated the proceedings for registration of FIR under Section 420 IPC, no such offence is made out.

Counsel for the petitioner has submitted that since the matter stands settled and the complainant while making the statement in the proceedings under Section 138 of the Act has acknowledged this fact, no purpose will be served in prosecuting the petitioner as the possibility of his conviction is very bleak.

After hearing counsel for the parties and in view of the judgment passed by the Hon'ble Supreme Court in '**G. Sagar's**' case (*supra*), this petition is allowed and the FIR No.9 dated 29.1.2017 registered under Sections 420 and 120-B IPC at Police Station Division No.8, Ludhiana and all other subsequent proceedings arising therefrom, are quashed.

(ARVIND SINGH SANGWAN)
JUDGE

December 02, 2019
satish

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No