

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

CRM-M-35605 of 2021

DECIDED ON: 10th November, 2021

Manmohan

.....PETITIONER

VERSUS

State of Haryana

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. K.P.S. Virk, Advocate for petitioner.
Ms. Geeta Sharma, DAG Haryana.

AVNEESH JHINGAN, J (ORAL)

Due to COVID-19 situation, the Court is convened through video conference.

This petition under Section 482 Cr.P.C. is filed seeking quashing of order dated 30.5.2018 passed by Judicial Magistrate First Class, Safidon, District Jind, declaring the petitioner as proclaimed offender in Complaint No.NACT/622/2016, dated 20.12.2016, under Section 138 of Negotiable Instruments Act, 1881 (for short 'the Act') titled as M/s Sky Lark Vs. Manmohan as well as FIR No. 341 dated 17.6.2018, under Section 174-A IPC, PS Safidon, District Jind.

Brief facts are that M/s Sky Lark filed a complaint under Section 138 of the Act against the petitioner on account of dishonouring of cheque. Summons were issued to the petitioner on 19.12.2016 but service could not be effected. Warrants of arrest were issued and same were received back unserved. On gaining knowledge of the complaint, the petitioner entered into a compromise and the complaint was withdrawn by the complainant on 14.7.2018. During pendency, the trial Court on receiving the report of untraceable issued proclamation under Section 82 Cr.P.C. and declared petitioner proclaimed offender vide order dated 30.5.2018. Petitioner surrendered before the Court and applied for bail, he was granted bail on

Learned counsel for the petitioner submits that the trial Court erred in issuing proclamation and declaring petitioner as proclaimed offender. The petitioner was never served with summons or warrants issued. There was non-compliance of Section 82 Cr.P.C. As soon as the petitioner came to know about the proceedings before the trial Court, he put in appearance and was granted bail. Complaint under Section 138 of the Act was withdrawn by the complainant as the matter was compromised.

Learned counsel for the petitioner 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 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 is not disputing the factual position.

Heard learned counsel for the parties at length. There is no dispute that the complaint under Section 138 of the Act was withdrawn. The petitioner had already put in appearance before the Court and was granted bail. Continuation of proceedings under Section 174-A IPC would be an abuse of process of law.

Considering the facts and circumstances of the case in totality and the judgments relied upon by the petitioner, the impugned order and FIR No.341 dated 17.6.2018, under Section 174-A IPC, PS Safidon, District Jind and all subsequent proceedings therefrom are hereby quashed.

The petition is allowed.

10th November, 2021

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**(AVNEESH JHINGAN)
JUDGE**

Whether speaking/reasoned *Yes*

Whether reportable *Yes*