

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

**CRM-M-41236-2021
Date of decision : 23.11.2021**

Daya Nand Sharma

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. K. S. Godara, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for setting-aside the order dated 29.11.2019, vide which the petitioner has been declared a proclaimed person as well as for quashing of FIR No. 44 dated 21.01.2020, registered under Section 174-A of the IPC at Police Station Hansi City, District Hansi.

On 12.10.2021, while staying the operation of the impugned order dated 29.11.2019 (Annexure P-2) and the proceedings in the impugned FIR, the following order was passed:

“.....Learned counsel for the petitioner submits that has argued that initially a complaint under Section 138 of the Negotiable Instruments Act was filed by one Jagminder Singh and during the pendency of the said proceedings, since the service could not be effected on the petitioner, the trial Court after issuing a proclamation, declared the petitioner as proclaimed person vide order dated 29.11.2019 and then, directed to register an FIR under Section 174-A IPC. Counsel for the petitioner has

further submitted that lateron, the petitioner appeared before the Judicial Magistrate Ist Class, Hansi, where the complaint under Section 138 of the Negotiable Instruments Act was pending and since there was a compromise between the petitioner and the complainant in the said complaint, the same was withdrawn on 02.08.2021, by passing the following order:-

“File put up on an application moved on behalf of complainant for withdrawing the present complaint. Complainant appeared and suffered a statement to the effect that compromise has been effected between the parties. So, he does not want to pursue with the present complaint and withdraws the same. Heard. In view of the statement suffered by the complainant, present complaint is hereby dismissed as withdrawn. File be consigned to record room after due compliance.”

Counsel for the petitioner has, thus, submitted that no purpose will be served in putting the petitioner to face the trauma of trial in the present FIR, registered under Section 174-A IPC.

Notice of motion....”

Learned counsel for the petitioner submits that keeping in view of the facts and circumstances of the case, the prosecution of the petitioner under Section 174-A IPC is nothing but the misuse of the process of law as the proceedings under Section 138 of the N.I. Act already stands withdrawn on the basis of a compromise entered into between the parties and the present FIR was registered during the pendency of the said proceedings.

Learned counsel for the petitioner has relied upon the decisions rendered by this Court in ***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, the 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, I find merit in the present petition.

Since the main complaint filed by the complainant under Section 138 of the N.I. Act itself stands dismissed as withdrawn by the trial Court keeping in view the fact that the matter stands compromised between the parties, this Court is of the opinion that continuation of proceedings under Section 174-A IPC shall be an abuse of process of law.

Accordingly, in view of the facts and circumstance of the case and also in view of the judgments relied upon by the petitioner, this petition is allowed and impugned FIR No. 44 dated 21.01.2020, registered under Section 174-A of the IPC at Police Station Hansi City, District Hansi along with all the subsequent proceedings arising therefrom including the order dated 29.11.2019, vide which the petitioner has been declared a proclaimed person, is hereby quashed.

23.11.2021

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No