

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-6672-2022 (O & M)

Date of decision: 03.03.2022

Harmeet Kaur alias Harmit Kaur

..... Petitioner

V/s

State of Punjab and anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Ashish Aggarwal, Advocate, for the petitioner.

Mr. Sidakmeet Sandhu, AAG, Punjab.

Mr. Yaseen Sethi, Advocate, for respondent No.2.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition is for the quashing of FIR No.204 dated 28.07.2018 under Section 174-A IPC registered with Police Station Sadar Tarn Taran, District Tarn Taran (Annexure P-5) and all the subsequent proceedings arising therefrom.

The brief facts are that the petitioner was summoned in a complaint case under Section 138 of the Negotiable Instruments Act. The allegations were that the petitioner had issued a cheque for Rs.90,000/- to the complainant-Chamkaur Singh, which was dishonoured, pursuant to which, the complaint had been filed. During the course of the proceedings in the said complaint, the petitioner was declared a proclaimed person vide order dated 26.02.2018 (Annexure P-4). In compliance of the order dated 26.02.2018 whereby the petitioner had been declared a proclaimed person, a formal FIR No.204 dated 28.07.2018 under Section 174-A IPC was got

registered against the petitioner. A copy of the FIR has been attached as Annexure P-5. Meanwhile, a settlement was effected between the petitioner-accused and respondent No.2-complainant whereby the cheque amount of Rs.90,000/- was paid to the complainant during a Lok Adalat in Tarn Taran on 31.01.2022. The statement of the complainant and the order dated 31.01.2022 are attached with the petition as Annexure P-6. Pursuant thereto, the complainant withdrew his complaint. Meanwhile, in the impugned FIR, the petitioner was granted the concession of anticipatory bail vide order dated 03.02.2022 (Annexure P-8).

The counsel for the petitioner contends that the mandatory provisions of Section 82 Cr.P.C. were not complied with, while declaring the petitioner a proclaimed person. He has referred to the fact that a clear notice of 30 days was required to be given to the petitioner for appearance before the learned Court whereas the notice was actually for a period of 04 days only. However, the primary contention of the learned counsel for the petitioner is that once the petitioner had effected a settlement with the complainant and had paid the entire cheque amount of Rs.90,000/-, leading to the withdrawal of the complaint under Section 138 of the Negotiable Instruments Act, the continuance of the proceedings in the present FIR would be an abuse of process of the Court. He relies upon the judgment passed by this Court in the case of '*Microqual Techno Limited and others versus State of Haryana, 2015(32) RCR (Criminal) 790*', *Baldev Chand Bansal versus State of Haryana and another, CRM-M-43813 decided on 29.01.2019*', *Ashok Madan versus State of Haryana and another, 2020(4)*

RCR (Criminal) 87’ and ‘Raman Jossan versus State of Punjab and another, CRM-M-49607-2021 decided on 26.11.2021’.

The learned counsel for respondent No.1-State submits that it is a matter of record that a compromise has been effected between the petitioner and respondent No.2. He, however, submits that the aforementioned FIR under Section 174-A IPC is an independent offence, and thus, should not be quashed.

Mr. Yaseen Sethi, Advocate, has put in appearance on behalf of respondent No.2-complainant today. He admits the factum of compromise and also states that the complaint under Section 138 of the Negotiable Instruments Act has been withdrawn.

I have heard the learned counsel for the parties.

In the judgments titled as “***Microqual Techno Limited and others versus State of Haryana, Baldev Chand Bansal versus State of Haryana and another, Áshok Madan versus State of Haryana and another, ‘Raman Jossan versus State of Punjab and another, (supra)’***”, as well as in the judgment dated 21.05.2019 passed in a case titled as ‘***Ved Parkash versus State of Haryana, CRM-M-21242-2018***’, this Court has repeatedly observed that once the main dispute under Section 138 of the Negotiable Instruments Act stands settled between the parties, the continuance of proceedings arising out of the main dispute, are an exercise in futility. An FIR under Section 174-A IPC is pursuant to the order of the trial Court whereby a person has been declared a proclaimed person in a case under the Negotiable Instruments Act. Once the primary case in which the

accused has been declared as a proclaimed person has itself been withdrawn, no useful purpose would be served by allowing the proceedings in FIR No.204 dated 28.07.2018 under Section 174-A IPC registered with Police Station Sadar Tarn Taran, District Tarn Taran(Annexure P-5) to continue.

Thus, keeping in view the authoritative pronouncements of this Court in the cases of “*Microqual Techno Limited and others versus State of Haryana, Baldev Chand Bansal versus State of Haryana and another, Áshok Madan versus State of Haryana and another, ‘Raman Jossan versus State of Punjab and another, Ved Parkash versus State of Haryana (supra)*”, in the interest of justice, the FIR No.204 dated 28.07.2018 under Section 174-A IPC registered with Police Station Sadar Tarn Taran, District Tarn Taran(Annexure P-5) and all subsequent proceedings arising therefrom are hereby quashed.

The present petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

March 03, 2022
sukhpreet

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