

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

Sr. No.288

CRM-M-7753 of 2022

Date of Decision: 17.08.2022

Arshad M.Khan and others

.....Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Gurmeet Singh Saini, Advocate for the petitioners.

Mr. Sidakmeet Singh Sidhu, AAG, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

This is a petition under Section 482 of Cr.P.C. for quashing the FIR No.150 dated 13.09.2018, registered under Section 174-A IPC (Annexure P-1) at Police Station City Abohar-I, District Fazilka and all consequential proceedings arising therefrom, on the basis of compromise dated 15.09.2021 (Annexure P-21) arrived at between the parties.

Mr. Satbir Singh Gill, Advocate has put in appearance on behalf of the complainant by filing power of attorney and the same is taken on record.

Learned counsel for the petitioners has submitted that the complainant filed a complaint against the petitioners with the allegations that the petitioners had issued two cheques amounting to Rs.15,00,000/- each to the complainant and the said cheques were dishonoured and accordingly, the petitioners were ordered to be summoned under Section 138 of Negotiable Instruments Act by the Court of learned Sub Divisional Judicial Magistrate, Abohar vide order dated 25.02.2014. It is submitted that the petitioners were not having any knowledge of the complaint having been filed by the

complainant nor did they received a copy of the summons and the entire process upto the petitioners being declared proclaimed persons took place behind their back. On learning about the same, the petitioners compromised the matter with the complainant. Learned counsel further submitted that the matter has already been compromised pursuant to which, the complainant had appeared before the learned Judicial Magistrate 1st Class, Abohar on 17.11.2021 and counsel for the complainant made a statement qua the same, whereupon the complaint in question has been permitted to be withdrawn.

Learned State counsel has opposed the present petition and has submitted that the FIR has been correctly registered.

This Court has heard learned counsel for the petitioners, learned State counsel as well as learned Counsel for the complainant and has perused the paper-book.

From the abovesaid facts and circumstances, it is apparent that the present FIR was registered in view of the fact that the petitioners were declared as proclaimed persons in the proceeding under Section 138 of the Act of 1881. The impugned complaint under Section 138 of the Act of 1881 itself has been withdrawn.

A Coordinate Bench of this Court in **CRM-M-43813-2018** titled as “**Baldev Chand Bansal vs. State of Haryana and another**”, decided on 29.01.2019 has held as under:-

“Prayer in this petition is for quashing of FIR No.64 dated 15.02.2017 filed under Section 174-A of the Indian Penal Code registered at Police Station Sector-5, Panchkula and all other subsequent proceedings arising thereof as well as order dated 24.10.2016 passed by the

trial Court vide which a direction was issued to register the aforesaid FIR.

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Learned counsel for the petitioner has 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 174A of IPC shall be nothing but an abuse of the process of law.

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In view of the same, I find merit in the present petition and accordingly, present petition is allowed and the impugned order dated 24.10.2016 passed by Judicial Magistrate, 1st Class, Panchkula as well as FIR No.64 dated 15.02.2017 registered under Section 174-A of the Indian Penal Code at Police Station Sector-5, Panchkula and all other subsequent proceedings arising thereof, are hereby quashed.”

A perusal of the above judgment would show that in a similar case where the FIR had been registered under Section 174-A IPC in view of the order passed in proceedings under Section 138 of the Act, while declaring the petitioner therein as proclaimed offender, a Coordinate Bench

under Section 138 of the Act stands withdrawn in view of an amicable settlement between the parties, the continuation of proceedings under Section 174-A IPC is nothing but an abuse of the process of law. The said aspect was one of the main consideration for allowing the petition and setting aside the order declaring the petitioner therein as a proclaimed person as well as for quashing of the FIR under Section 174-A IPC

Another Coordinate Bench of this Court in a case titled as “Ashok Madan vs. State of Haryana and another” reported as 2020(4) RCR (Criminal) 87 has also held as under:-

“No doubt, the learned counsel for the respondent has vehemently argued that the offence under Section 174A I.P.C. Is independent of the main case, therefore, merely because the main case has been dismissed for want of prosecution, the present petition cannot be allowed, however, keeping in view the fact that the present FIR was registered only on account of absence from the proceedings in the main case which had been subsequently regularised by the court while granting bail to the petitioner, the default stood condoned. In such circumstances, continuation of proceedings under Section 174A I.P.C. Shall be abuse of the process of court

7. Accordingly, the petition is allowed. FIR No.446 dated 21.08.2017, registered under Section 174A I.P.C. At Police Station Kotwali, District Faridabad, as well as consequential proceedings shall stand quashed.”

A perusal of the relevant extract of the above judgment would show that where the main case was dismissed for want of prosecution, it was observed that the continuation of proceedings under Section 174-A IPC shall

be an abuse of the process of court. A similar view has been expressed by this Court in “Anil Kumar Versus Jitender Kumar and another, CRM-M-5878-2022 decided on 06.04.2022”, “Anil Kumar Versus Jitender Kumar and another, CRM-M-5755-2022 decided on 06.04.2022” and “Varinder Kumar @ Virender Kumar Versus State of Haryana and another, CRM-M-42551-2021 decided on 19.04.2022”.

In the present case the proceedings under Section 138 NI Act have culminated in a settlement with the withdrawal of the complaint under Section 138 NI Act.

In view of the above, the present petition is allowed and the FIR No.150 dated 13.09.2018, registered under Section 174-A IPC (Annexure P-1) at Police Station City Abohar-I, District Fazilka and all consequential proceedings arising therefrom qua the present petitioners, are hereby quashed.

(JASJIT SINGH BEDI)
JUDGE

17.08.2022
Maninder

Whether Speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No