

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

**CRM-M-9256-2021
Date of decision : 28.09.2022**

Bhalinder Singh

..... Petitioner

versus

Raj Kumar and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Prashant Bansal, Advocate
for the petitioner.

Ms. Arti, Advocate
for respondent No.1-complainant.

Ms. Vasundhara Dalal Anand, APP, U.T. Chandigarh
for respondent No.2.

PANKAJ JAIN, J. (Oral)

This is a petition filed under Section 482 Cr.P.C. seeking quashing of order dated 03.10.2017 passed by JMIC, Chandigarh in Complaint Case No.8055 of 2014, under Section 138 of the Negotiable Instruments Act, titled as 'Raj Kumar vs. Bhalinder Singh' and FIR No.451 dated 22.12.2017, registered for the offence punishable under Section 174-A of IPC at Police Station Sector-36, District Chandigarh.

2. In compliance of the order dated 01.03.2021, costs have been made good. Receipt dated 05.03.2021 issued by District Legal Services Authority, U.T., Chandigarh bearing No.20984 has been shown.

3. Counsel for respondent No.1-complainant submits that the proceedings under Section 138 of the Negotiable Instruments Act arising out of the Complaint Case No. 8055 of 2014, titled as 'Raj Kumar vs. Bhalinder Singh' stand settled and the complaint has been withdrawn.

4. The question w.r.t. continuity of proceedings under Section 174-A IPC in a case where principal complaint stands settled is no more *res integra* and has been answered by Co-ordinate Bench of this Court in **CRM-M-43813- 2018** titled as **“Baldev Chand Bansal Vs. State of Haryana and another”** vide order dated 29.01.2019, which 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.”

5. Same is the view of another Co-ordinate Bench in the “**Ashok Madaan vs. State of Haryana and another**” reported as 2020 (4) RCR (Criminal) 87, wherein it has been held that:

“No doubt, the learned counsel for the respondent has vehemently argued that the offence under Section 174-A 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.”

6. Keeping in view the facts and circumstances of the present case and in view of the principles settled by this Court, the present petition is allowed. Order dated 03.10.2017 passed by JMIC, Chandigarh in Complaint Case No.8055 of 2014, under Section 138 of the Negotiable Instruments Act, titled as 'Raj Kumar vs. Bhalinder Singh' and FIR No.451 dated 22.12.2017, registered for the offence punishable under Section 174-A of IPC at Police Station Sector-36, District Chandigarh are hereby quashed qua the petitioner.

(PANKAJ JAIN)
JUDGE

28.09.2022

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Whether speaking/reasoned : Yes

Whether Reportable No