

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-12412-2022

Date of Decision:-04.08.2022

Gurmeet Singh.

.....Petitioner.

Vs.

State of Punjab & Anr.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Rajnish K. Gupta, Advocate for the Petitioner.

Mr. Kirat Singh Sidhu, DAG Punjab.

Mr. Saurabh Bhardwaj, Advocate for respondent no.2.

JASJIT SINGH BEDI, J.(ORAL)

This is a petition under Section 482 of Cr.P.C. for quashing/setting aside the impugned orders dated 07.09.2017, 14.09.2017, 26.09.2017 and 24.10.2017 (Annexures P-5 to P-8) passed by learned SDJM, Nabha whereby the exemption of the petitioner was disallowed and warrant of arrest have been issued and subsequently without comply with the provisions of Section 82(1) Cr.PC the petitioner was declared a proclaimed offender and proceedings under Section 174-A IPC have been initiated.

The learned counsel for the petitioner has submitted that respondent No.2 filed a complaint against the petitioner with the allegations that the petitioner had issued a cheque amounting to Rs.12,00,000/- as part

payment in discharge of his legal liability to respondent No.2/complainant-HDFC Bank which was dishonoured. The petitioner was ordered to be summoned under Sections 138/142 of Negotiable Instruments Act by the Court of learned SDJM Nabha. The petitioner appeared initially but subsequently vide order Annexures P-5 to P-8 the petitioner was declared a proclaimed offender. On learning about the same, the petitioner compromised the matter with the complainant/respondent No.2. He has further submitted that the matter has already been compromised pursuant to which, the complainant/respondent Bank had appeared before the learned Sub Divisional Judicial Magistrate, Nabha on 24.05.2022 and counsel for the complainant/respondent no.2 made a statement qua the same, whereupon the complaint in question has been permitted to be withdrawn vide order dated 24.05.2022. Copy of order filed along with short affidavit of authorised representative of complainant-HDFC bank, is taken on record as Annexure R-1.

The learned State counsel has opposed the present petition and has submitted that the proceedings under Section 174-A IPC have been correctly ordered to be initiated.

This Court has heard the learned counsel for the petitioner, the learned State counsel as well as learned Counsel for the respondent no.2-complainant and has perused the paper-book.

From the above-said facts and circumstances, it is apparent that the present FIR was registered in view of the fact that the petitioner was declared as a proclaimed person 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 co-ordinate 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 co-ordinate Bench after relying upon various judgments observed that once the main petition

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 co-ordinate 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 impugned orders dated 07.09.2017, 14.09.2017, 26.09.2017 and 24.10.2017 (Annexures P-5 to P-8) passed by learned SDJM, Nabha and all consequential proceedings arising therefrom are hereby quashed.

(JASJIT SINGH BEDI)
JUDGE

August 04, 2022

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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>