

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

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CRM-M-11811-2020 (O&M)

Date of decision: 18.11.2022

NAVNEET DHAWAN

....Petitioner

Versus

STATE OF HARYANA

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Sachin Sharma, Advocate
for the petitioners.

Ms. Aditi Girdhar, AAG Haryana.

AMAN CHAUDHARY. J.

Present petition has been filed under Section 482 CrPC for quashing of the order dated 23.09.2019 passed by learned Judicial Magistrate First Class, Panchkula in case NACT No.854 of 2016 of 14.10.2016 titled as 'M/s Park Pharmaceuticals versus M/s ND Pharma' whereby the petitioner has been declared proclaimed offender and further quashing of the consequential FIR No.1 dated 01.01.2020 registered at Police Station Sector 14 Panchkula under Section 174-A IPC.

Learned counsel contends that the complaint under Section 138 of the Negotiable Instruments Act, was filed against the petitioner, wherein compromise was arrived at and the complaint itself was dismissed as withdrawn vide order dated 03.01.2020, Annexure P-1. It is his case that the petitioner was never served summons or warrants in the present case and only came to know about the order whereby he was proclaimed person vide order dated 23.09.2019, Annexure P-2. Consequent thereto FIR under Section 174-A dated 01.01.2020, Annexure P-3 was lodged. He submits that since the matter was compromised between the parties and the complaint itself stood withdrawn and he being never served with any summons the aforesaid order was passed. He submits that the absence of the petitioner was neither wilful nor deliberate.

Learned counsel submits that the petitioner was granted regular bail in the said FIR by the trial Court vide order dated 11.06.2020. It is his submission that once he had surrendered before the trial Court and granted bail coupled with the fact that main case being a complaint under Section 138 of the NI Act, the absence of the petitioner from the proceedings of which he was declared proclaimed person consequent to which the FIR was lodged, having been itself withdrawn by the complainant vide order dated 03.01.2020, the continuation of the proceedings in the FIR shall be an abuse of process of law.

In support of his submissions, learned counsel places reliance upon the following judgments of this Court to contend that in the similar set of facts and circumstances wherein the complaint filed under Section 138 of the Negotiable Instruments Act, 1881, itself stands withdrawn, the proceedings initiated under Section 174-A IPC were quashed being an abuse of process of law:-

1. ***“Murli Jha vs State of Haryana”, 2021(3) R.C.R.(Criminal)563.***
2. ***“Microqual Techno Limited and others vs State of Haryana”, 2015(3) R.C.R.(Criminal) 790.***
3. ***“Ram Kumar Rana vs State of Haryana and another”, 2022(1) R.C.R. (Criminal) 294.***
4. ***“Ashok Madan vs State of Haryana and another”, 2020(4) R.C.R. (Criminal) 87.***

This Court in the case of **Murli Jha** (supra) held as under:-

“8. I have considered the rival submissions of the parties. The FIR is an outcome of the order declaring the petitioner as a proclaimed person in proceedings initiated under section 138 of NI Act which stands settled, the complaint has been withdrawn and the proceedings against the accused petitioner were dropped. In such circumstances, the continuation of prosecution under Section 174-A IPC in pursuance to the orders passed by the trial Court cannot be permitted to continue. Reference in this connection may be made to the judgments of this Court in Microqual Techno R.C.R. (Criminal) 790; Rajneesh Khanna v. State of Haryana and another, 2017 (3) L.A.R. 555 and CRM-M32612 of 2020, Surender Singh v. State of Haryana and

another decided 12.01.2021. "

Furthermore, in CRM-M-43813-2018 titled as "**Baldev Chand Bansal vs. State of Haryana and another**", decided on 29.01.2019, this Court 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. 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."

In view of the aforesaid facts and circumstances of the case that the complaint filed under Section 138 of the Negotiable Instruments Act, 1881, itself having been withdrawn, and in view of the judgment in cases of **Murli Jha** and **Baldev Chand Bansal** (supra), FIR No.1 dated 01.01.2020 registered at Police Station Sector 14 Panchkula under Section 174-A IPC which has been registered consequent to order dated 23.09.2019 passed by learned Judicial Magistrate First Class, Panchkula is quashed, subject to payment of costs of Rs.10,000/- to be deposited with Poor Patients Welfare Fund at PGIMER, Chandigarh.

(AMAN CHAUDHARY)
JUDGE

November 18, 2022

S.Sharma(syr)

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