

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

**CRM-M-15603-2019
Date of decision : 02.09.2022**

Mahender Pal Jindal and another

....Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Arshdeep S. Cheema, Advocate
for the petitioners.

Mr. R.K. Ambavta, Asstt. Advocate General, Haryana
for respondent No.1/State.

PANKAJ JAIN, J. (ORAL)

By way of present petition filed under Section 482 Cr.P.C. , the petitioners are seeking quashing of order dated 22nd February, 2019 passed by the Judicial Magistrate 1st Class, Narwana, in complaint case No.164 dated 21st of April, 2017 filed under Section 138 read with Section 142 of the Negotiable Instruments Act (for short, 'the Act'), and all proceedings subsequent thereto including FIR No.81 dated 19th March, 2019 registered for the offence punishable under Section 174A, at Police Station Narwana City, District Jind (Annexure P-2)

2. Ld. Counsel for the petitioners has produced order dated 24th of December, 2021 passed by the Court of Judicial Magistrate 1st Class, Narnaul, which reads as under :-

**“NACT-164-2017 CNR No.HRJNA0-000692-2017
Atma Ram vs. Best Foods Ltd.**

Present: Complainant in person represented by Sh. Dara Singh, Advocate.

File put up today as an application for putting up the case file and to withdraw the same filed on behalf of complainant filed by his counsel. Complainant **Ashok Kumar Prop. M/s. Atma Ram Balwan Singh** has appeared in person and made his statement on oath to the effect that accused has paid the full amount in the present complaint. Therefore, he does not want to proceed further with the present complaint and seeks to withdraw the same. His statement to that effect has been recorded separately, which also identified by his counsel.

Heard. In view of the statement so made by complainant himself, **the present criminal complaint filed under Section 138 of Negotiable Instrument, Act is hereby dismissed as withdrawn.** File, after needful, be consigned to the records.

Announced in open Court:-
24.12.2021

(Naveen Kumar-I),
Judicial Magistrate First Class,
Narwana
UID-HR0461”

3. Certified copy of the order dated 24th of December, 2021, passed by JMIC, Narnaul, is being taken on record as Mark 'X'. Registry to tag the same at appropriate place.

4. While referring to the said order, Ld. Counsel for the petitioners contends that the main proceedings under Section 138 read with

Section 142 of the N.I. Act stands compromised and the complaint has been withdrawn as the liability alleged against the petitioners stands satisfied. It has been thus contended that the order declaring the petitioners as Proclaimed Persons and the consequential FIR No.81 dated 19th of March, 2019, cannot be sustained. He argues that the main objective of incorporating Section 174-A IPC is to secure the presence of the accused.

5. Ld. State Counsel submits that there are eleven more FIRs under Section 174-A IPC, pending against the petitioners, owing to the fact that the petitioners were declared Proclaimed Persons in similar proceedings. Responding thereto Mr. Cheema would submit that those proceedings also stand quashed as the main complaints under Section 138 of the N.I. Act have been compromised.

6. Keeping in view the fact that in the present case the main proceedings under Section 138 of the N.I. Act already stand compromised and the complaint has been withdrawn, the question will be 'whether in the given circumstances, proceedings under Section 174-A of the IPC pursuant to FIR No.81 dated 19th of March, 2019 can be allowed to continue'?

7. The question framed *ibid* is no more *res integra* and already stands 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."

8. 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.”

8. 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. The impugned order 22nd February, 2019 passed by the Judicial Magistrate 1st Class, Narwana and FIR No.81 dated 19th March, 2019 registered for the offence punishable under Section 174A, at Police Station Narwana City, District Jind (Annexure P-2), are hereby quashed *qua* the present petitioners.

September 02, 2022
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No