

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

209 (2)

**CRM-M-23675-2022
Date of decision: 19.07.2022**

DILBAG SINGH

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present:- Ms. Sneha Jakhar, Advocate
for the petitioner.

Mr. Ashish Yadav, Additional A.G. Haryana.

VINOD S. BHARDWAJ, J. (Oral)

1. The question that arises for consideration in the instant petition is that as to whether an FIR registered under Section 174-A of the IPC on account of an order passed in criminal complaint due to non-appearance of an accused, can be quashed as the original complaint stands amicably settled amongst the parties.

2. The instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR bearing No. 60 dated 15.02.2020 registered under Section 174-A of the Indian Penal Code, 1860 at Police Station Parao, District Ambala Cantt. along with all subsequent proceedings arising therefrom in case bearing complaint No. 522 of 2016 titled as “*MMFSL versus Dilbagh*”.

3. The brief facts of the petition are that the complainant had filed the complaint under Section 138 of the Negotiable Instruments Act on account of dishonour of cheque issued by the petitioner.

Consequently the petitioner was declared as a proclaimed person vide order dated 31.08.2017.

4. The instant FIR was an outcome of the said order declaring the petitioner as proclaimed person.

5. Learned counsel for the petitioner has contended that the continuation of the proceedings would not serve any purpose since the main case has already been settled between the parties and consequent upon the settlement arrived at, the payment was made and the complaint was withdrawn in the National Lok Adalat. He has drawn reference to order dated 11.12.2021 pronounced in the National Lok Adalat as appended as Annexure P-2. The same is extracted as under:-

"Present: Sh. Puneet Sirpaul, Advocate for complainant.

File taken up in National Lok Adalat. Heard. Keeping in view of the statement made on 10.12.2021 by the ld. counsel for the complainant, the ld. Counsel for the complainant is permitted to withdraw his complaint and the present complaint is dismissed as withdrawn being compromised in National Lok Adalat. After doing needful, file be consigned to record room.

Member

*(Arun Dabla)/UID: (HR-0475)
Presiding Officer, National Lok
Adalat-cum-JMIC, Ambala
11.12.2021*

(National Lok Adalat)

6. Learned State counsel appearing on behalf of the respondent-State has not raised any serious challenge to the proceedings.

7. I have heard the learned counsel for the parties and gone through the record with their able assistance.

8. Without going into the legality of the order declaring the petitioner as a proclaimed person, I find that there is substance in the argument raised by the petitioner that once the proceedings in the criminal complaint wherein a declaration of the petitioner/accused as a proclaimed person was passed, stands mutually settled and withdrawn, the continuation of the FIR and consequential proceedings registered under Section 174-A IPC would not advance any interest of the justice.

9. 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.”

10. A perusal of the above judgment would show that in a similar case where the FIR had been registered under Section 174-A of the IPC pursuant to the order passed in proceedings under Section 138 of the Act of 1881, a Co-ordinate Bench after relying upon various judgments held that once the main petition under Section 138 of the Act of 1881 stands withdrawn in view of an amicable settlement between the parties, the continuation of proceedings under Section 174-A of the IPC is nothing but an abuse of the process of law.

11. 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.”

12. A perusal of the aforesaid judgment would show that the precedent judgments of this Court have taken a consistent view and have quashed the proceedings arising as a result of order declaring as a proclaimed person and the consequent registration of the FIR under Section 174-A IPC not advancing any interest of the justice and to be a mere protraction of an agony of criminal trial upon an accused when the main dispute has already been resolved. The object behind declaration of a proclaimed person is to ensure the presence of an accused before a Court of law and for finalisation of the proceedings initiated against such an accused. The said object stands fully satisfied because the accused has already settled the complaint and parties do not intend to pursue the criminal proceedings.

13. In view of the above, the instant petition is allowed and FIR bearing No. 60 dated 15.02.2020 registered under Section 174-A of

the Indian Penal Code, 1860 at Police Station Parao, District Ambala Cantt. is quashed.

(VINOD S. BHARDWAJ)
JUDGE

JULY 19, 2022

Vishal sharma

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No