

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

110+240

CRM-32235-2022 in/and

CRM-M-47380-2018

Date of Decision: September 06, 2022

Geeta

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Kanwar Abhey Singh and
Mr. Govind Rana, Advocates for the petitioner.

Ms. Aditi Girdhar, AAG, Haryana.

AMAN CHAUDHARY, J.(Oral)

CRM-32235-2022

Application is allowed as prayed for.

Zimni orders passed passed by the trial Court are taken on
record as Annexures P-9 to P-29.

Main Case

Present petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No.878, dated 09.07.2015, under Section 174-A of IPC, registered at Police Station City Gurugram, District Gurugram along with all the consequential proceedings arising therefrom on the basis of settlement arrived at between the parties dated 03.06.2016 (Annexure P-5) in the main complaint filed under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred as 'the N.I. Act').

A perusal of the file shows that the proceedings under
Section 138 of the N.I. Act were initiated against the petitioner by filing a

complaint instituted by complainant Gajender, which were initially taken up on 11.08.2014 and the petitioner was summoned to face trial. On 04.11.2014, despite service none had appeared on behalf of the petitioner. The case was called several times but none had appeared on behalf of the petitioner. Accordingly, the petitioner was summoned through bailable warrants in the sum of Rs.5,000/- with one surety in the like amount for 26.11.2014. On 26.11.2014, bailable warrant issued against the petitioner received back unexecuted and fresh bailable warrant was issued in the sum of Rs.5,000/- with one surety in the like amount against the accused for 18.12.2014. On 18.12.2014, again bailable warrant received back unserved and non-bailable warrant against the accused was issued from 22.01.2015 but the same also returned back unserved and the petitioner was ordered to be served through proclamation as envisaged under Section 82 of the Cr.P.C. for 19.02.2015. Thereafter, on 23.03.2015, the case was called several times and it was 2.30 p.m, but none had appeared for the petitioner, he was declared proclaimed person and necessary intimation was ordered to be given to the concerned S.H.O. to initiate the proceedings against him under Section 174-A IPC. In furtherance thereof he submits that the FIR was registered on 09.07.2015 under Section 174-A of the IPC in which the petitioner has been granted interim bail in the said FIR vide order dated 29.07.2016 passed by learned Addl. Sessions Judge, Gurgaon.

Learned counsel for the petitioner draws the attention of this Court to Annexure P-6, being order dated 03.06.2016, passed by the learned Judicial Magistrate 1st Class, Gurgaon, recording a separate statement having been made by the complainant, according to which, he

had settled the matter with the petitioner and did not want to proceed further with the complaint and prayed for withdrawal of the complaint. Accordingly, the complaint was dismissed as withdrawn.

Learned counsel for the petitioner places reliance upon the following judgments of various co-ordinate Benches 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.***

Notice of motion.

At the asking of the Court, Mr. Manipal Singh Atwal, DAG, Punjab, accepts notice on behalf of the respondent-State and affirms the factum of compromise of the matter.

A co-ordinate Bench in ***Murli Jha***'s case (*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 connectin 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-M-32612 of 2020, Surender Singh v. State of Haryana and another decided on 12.01.2021.** ”*

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, based on statement of the complainant that he had settled the matter with the accused and in view of the judgment in case of **Murli Jha's** case (*supra*), the FIR No.878, dated 09.07.2015, under Section 174-A of IPC, registered at Police Station City Gurugram, District Gurugram along with all the consequential proceedings arising therefrom, is quashed, subject to payment of costs of Rs.10,000/- to be deposited with the Poor Patients' Welfare Fund at PGIMER, Chandigarh.

Disposed of.

September 06, 2022

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**(AMAN CHAUDHARY)
JUDGE**

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No