

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-30010-2022
Date of decision : 14.07.2022

Mukesh Kumar

... Petitioner

Versus

State of Haryana and others

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Bhim Singh, Advocate
for the petitioner.

Mr.Praveen Bhadu, AAG, Punjab.

Mr. Rajiv Kumar Saini, Advocate
for respondent no.3.

VIKAS BAHL, J.(ORAL)

This is the petition under Section 482 Cr.P.C. with a prayer for quashing of FIR no.0458 dated 16.06.2021 registered under Section 174-A IPC, at Police Station Karnal City, District Karnal and all other consequential proceedings arising therefrom, in view of the fact that the matter has been compromised and proceedings under Section 138 of the Negotiable Instruments Act, 1881 (in short "N.I. Act") have been withdrawn.

Learned counsel for the petitioner has submitted that respondent no.3 had filed a complaint under Section 138 of the N.I. Act on 05.10.2018. It is further submitted that the petitioner was declared as proclaimed person in the said case vide order dated 23.03.2021 and the

Judicial Magistrate Ist Class, Karnal, in the said order had directed the SHO concerned to register an FIR and in pursuance of the said order, the present FIR under Section 174-A IPC has been registered. It is stated that the matter has been compromised vide compromise deed dated 14.07.2021 and in pursuance of the said compromise, respondent no.3 has withdrawn his complaint under Section 138 of the N.I. Act as is apparent from the order dated 15.07.2021 (Annexure P-4) and it is, thus, argued that since the main complaint under Section 138 of the N.I. Act has been withdrawn, then no purpose would be served by keeping the present FIR under Section 174-A IPC alive.

On advance notice, Mr. Praveen Bhadu, AAG, Haryana, appears and accepts notice on behalf of the respondent-State and has submitted that he is fully prepared to argue the matter and assist this Court. He has opposed the present petition and has submitted that FIR has been rightly registered in pursuance of the order dated 23.03.2021.

Mr. Rajiv Kumar Saini, Advocate, has appeared on behalf of respondent no.3 and has submitted that the matter has been compromised and the complaint under Section 138 of the N.I. Act has been withdrawn and he has no objection in case the present petition is allowed and the FIR in question is quashed.

This Court has heard learned counsel for the parties.

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.

xxx xxx xxx

*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.*

xxx xxx xxx

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 proclaimed person

as well as 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 abuse of the process of court.

In the present case, the complaint under Section 138 of the N.I. Act was instituted by respondent no.3 and vide order dated 23.03.2021 the petitioner was declared as proclaimed person in the said case and a direction was given to the SHO concerned for registration of the FIR and it is in pursuance of the said order that the present FIR had been registered. It is not disputed that the matter has been compromised vide compromise deed dated 14.07.2021 and the main complaint under Section 138 of the N.I. Act has also been withdrawn vide order dated 15.07.2021. The relevant portion of

*“Present: Complainant in person with counsel
Sh.M.K.Sagwal, Adv.*

Accused declared PO vide order dated 23.03.2021.

File taken up today on the application moved by the complainant through his counsel for seeking permission to withdraw the present complaint. Complainant has suffered a statement that the matter has been compromised with the accused and he does not want to proceed further with the present complaint, same may kindly be dismissed as withdrawn. Heard. Keeping in view the above statement of complainant present complaint is hereby dismissed as withdrawn. File be consigned to record room after due compliance.

Pronounced in open court.

Sd/-

Dated: 15.07.2021

*(Suman Patlain)
Judicial Magistrate Ist Class,
Karnal.UID No.HR-0472”*

Even learned counsel for respondent no.3 has stated that the matter has been compromised and stated that he has no objection in case the present petition is allowed. Since the main complaint under Section 138 of the N.I. Act has been withdrawn, no purpose would be served by keeping the present petition alive.

Keeping in view the above said facts and circumstances as well as the law laid down in the above said judgments, the present petition is allowed and the FIR no.0458 dated 16.06.2021 registered under Section 174-A IPC, at Police Station Karnal City, District Karnal and all the subsequent proceedings arising therefrom are hereby quashed.

**(VIKAS BAHL)
JUDGE**

July 14, 2022

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No