

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

228

CRM-M-39533-2021

Date of Decision: 10.11.2022

Sunil Mohan Wig and another

..... Petitioners

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Jai Bhagwan Sharma, Advocate
for the petitioners.

Ms. Dimple Jain, AAG, Haryana.

JAGMOHAN BANSAL, J. (Oral)

The instant petition has been filed under Section 482 Cr.P.C., seeking quashing of FIR No. 212 dated 07.06.2019, registered under Section 174-A IPC, at Police Station Faridabad N.I.T., District Faridabad (Annexure P-1), and all the consequent proceedings arising therefrom.

The brief facts emerging from the record and necessary for the adjudication of the present petition are that respondent No.2-M/s K.S.Steel, NIT Faridabad, in its ordinary course of business supplied steel bars to the petitioners. The petitioners in discharge of their legal liabilities issued cheque bearing No.771890 dated 18.07.2016 for Rs.12,05,399/- drawn on State Bank of India, Faridabad. The complainant-respondent No.2 presented the aforesaid cheque which was returned with remarks "Funds Insufficient". Respondent No.2 took its legal course as provided under Section 138 of Negotiable Instruments Act (for short, 'NI Act'). Learned JMIC, Faridabad

vide order dated 15.11.2017 held the petitioners guilty. However, petitioners entered into compromise with complainant before awarding of sentence by learned trial Court. The petitioners came to be released on probation.

The petitioners while trial under Section 138 of NI Act was pending before JMIC, Faridabad failed to appear on the date fixed which entailed proceedings under Section 82/83 Cr.P.C. Learned JMIC, Faridabd declared the petitioners proclaimed offenders and directed the SHO, Police Station, NIT Faridabad to register the FIR against them.

In compliance of orders of JMIC, Faridabad an FIR No. 212 dated 07.06.2019 came to be registered under Section 174-A of IPC. The petitioners surrendered before trial Court and were released on bail vide order dated 30.09.2019. Respondent No.2 filed an application seeking withdrawal of his complaint and learned trial Court vide order dated 19.01.2021 (Annexure P-5) ordered to dismiss the complaint as withdrawn.

Learned counsel for the petitioners would contend that respondent No.2 has already received payment of cheque in dispute and complaint under Section 138 and 141 of NI Act stands withdrawn, therefore, continuance of proceedings under Section 174A of IPC amounts to abuse of process of law as proceedings under Section 174A of IPC are consequential in nature.

Learned State counsel on being confronted above-stated facts would submit that the main matter i.e. dishonour of cheque has already been settled between the parties, however, proceedings under Section 174A were initiated on account of non-appearance of petitioners before learned trial Court.

Learned State counsel does not seriously dispute the prayer of the petitioners especially in view of the fact that the main matter has already been settled between the parties and State is not an aggrieved party.

I have heard arguments of both sides and perused the record.

It is undisputed fact that main dispute between petitioners and respondent No.2 stands settled. The dispute between the parties was confined to dishonour of cheque and respondent No.2 has already received full and final payment. The proceedings under Section 174A were initiated on account of declaration of petitioners as proclaimed offenders. The petitioners subsequently joined proceedings and settled the matter. There seems to be no reason to continue with proceedings under Section 174A especially when petitioners have already appeared before the learned trial Court and settled the main dispute.

In view of the above-stated facts and circumstances, this Court is of the considered opinion that the present petition deserves to be allowed and accordingly allowed. FIR No. 212 dated 07.06.2019, registered under Section 174-A IPC, at Police Station Faridabad N.I.T., District Faridabad (Anneuxre P-1) and all other consequential proceedings arising therefrom are quashed qua the petitioner(s).

(JAGMOHAN BANSAL)
JUDGE

10.11.2022

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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>