

265

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

CRM-M-40310-2021

Date of Decision: September 15, 2022

VIDYA DEVI

....Petitioner(s)

VERSUS

STATE OF HARYANA AND ANOTHER

....Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. V.D. Sharma, Advocate
for the petitioner.

Ms. Aditi Girdhar, AAG, Haryana.

AMAN CHAUDHARY, J.(ORAL)

The present petition has been filed under Section 482 Cr.P.C.
for quashing of FIR No.1399 dated 23.11.2019, under Sections 174-A of
IPC, registered at Police Station CityJagadhri, District Yamuna Nagar.

Learned counsel for the petitioner submits that the petitioner
was unable to return the loan amount. Learned counsel for the petitioner
while referring to para 3 of the petition submits that the complaint had been
filed by respondent No.2, upon which the petitioner was summoned vide
order dated 19.07.2018, however, immediately thereon, the petitioner
approached the bank and deposited the due amount of Rs.6,75,000/- in the
loan account of the petitioner on 30.07.2019 by way of cheque issued from
the account of the son of the petitioner namely Rajiv Kumar and the matter

was compromised. Consequent thereto, the bank had also sent a No Due Certificate to the Tehsildar, Jagadhri for cancellation of loan entry depicted in the revenue record. Pursuant to the said compromise, the petitioner was assured by the Bank Manager that this complaint would be withdrawn. Based on the aforesaid, the petitioner did not appear in the above said complaint before the learned trial Court. Thereafter, the petitioner came to know of her having been declared proclaimed offender vide order dated 04.10.2019, Annexure P-4, on which he approached the bank and thereafter the bank withdrew the said complaint vide order dated 26.02.2020, Annexure P-5. The petitioner was granted anticipatory bail by this Court vide order dated 31.08.2021. Learned counsel submits that the petitioner is an old lady of 70 years and suffering from various old diseases. She is an illiterate/rustic village lady, not familiar with the proceedings of the Court, in fact due to the mistake on part of the bank that despite assurance given to the petitioner and No Due Certificate having been issued in favour of the Tehsildar, still complaint was not withdrawn which led to the petitioner being declared proclaimed offender vide order dated 04.10.2019. Learned counsel submits that had the complaint been withdrawn, in terms of the assurance, the order dated 04.10.2019 would not have been passed.

Learned counsel for the petitioner places reliance upon the following judgments of various Coordinate Benches of this Court to contend that in the similar set of facts and circumstances wherein the complaint filed under Section 138 of 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.”***

Learned State counsel submits that she is unable to dispute the fact that the complaint itself was withdrawn and the matter stands settled between the parties.

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 received full and final payment from the accused and in view of the judgment in case of ***Murli Jha***'s case (*supra*), the FIR No.1399, dated 23.11.2019, under Section 174-A of IPC, registered at Police Station

Jagadhri, District Yamuna Nagar, along with all the consequential proceedings arising therefrom, is quashed.

Disposed of.

15.09.2022
Sangeeta

(AMAN CHAUDHARY)
JUDGE

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