

115 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-36901-2022

Date of decision : 11.11.2022

Harinder Pal Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Dinesh Maurya, Advocate
for Mr. G.S.Sandhu, Advocate, for the petitioner.
Mr. Chetan Sharma, AAG, Haryana.

SANDEEP MOUDGIL, J.

The instant petition under Section 482 Cr.P.C has come before this Court to quash the FIR No.0468 dated 01.06.2022, under Section 174-A IPC registered at Police Station Assandh, District Karnal (Annexure P-8) and all the subsequent proceedings arising therefrom as the main case has already been decided as complaint no.NACT/85/2017 titled as HDFC Bank v. Harinder Pal Singh under Section 138 of Negotiable Instruments Act stands withdrawn vide order dated 05.08.2022 (Annexure P-7).

Learned counsel for the petitioner has submitted that in the present case, HDFC Bank Branch Office Assandh, had filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter to be referred as “the Act of 1881”) for the alleged dishonor/return of cheque no.1 dated 19.01.2017 amounting to Rs.14,60,000/-, with the remarks 'insufficient funds' and in the said proceedings, the petitioner, who is a resident of Near Mahavir Rice Mill, Dera Gama Road, Assandh, Distt. Karnal, was served with notice of accusation, to which he pleaded not guilty and claimed trial but thereafter despite nonailable warrants did not appear and ultimately was declared a proclaimed person vide order dated 30.10.2019 (Annexure P-5) passed by the Judicial Magistrate Ist Class, Assandh (for short “JMIC”) and on account of the said fact,

the present FIR was also registered. It is argued that in the proceedings under Section 138 of the Act of 1881, as per the instructions of the complainant bank vide order dated 05.08.2022 (Annexure P-7), the complaint filed under Section 138 of the Act of 1881 was withdrawn. It has further been argued that in view of the above, further proceedings in the FIR (Annexure P-8) in question is an abuse of the process of law.

Notice of motion.

On advance notice, Mr. Chetan Sharma, AAG, Haryana, who is present in the Court accepts notice on behalf of the State and has submitted that he is fully prepared to argue the matter and assist this Court. Although, he has opposed the present petition, however, the factual aspect as stated by the learned counsel for the petitioner have not been disputed to the effect that complaint stands withdrawn.

Heard.

From the record, it is apparent that the present FIR in question had been registered on account of the petitioner having been declared as proclaimed person vide order dated 30.10.2019 passed by the JMIC, Assandh in the proceedings under Section 138 of the Act of 1881, which were instituted in pursuance of the complaint filed by HDFC Bank and the counsel for the bank had given a statement on 05.08.2022 (Annexure P-7) to the effect that on instructions from the bank, he does not want to proceed further with the complaint against the present petitioner and accordingly, vide order dated 05.08.2022 (Annexure P-7), the complaint filed under Section 138 of the Act of 1881, was withdrawn, the relevant portion of which is reproduced hereinbelow:-

“Present Mr. R.K.Attri, Adv. for the complainant bank.

Original file received. It be restored at its original number. Learned counsel for the complainant appeared and suffered a statement that as per instructions of complainant bank, he does not want to proceed further with the present complaint and withdraws the same. Heard. Keeping in view the statement made by learned

counsel for complainant-bank, the present complaint is dismissed-as-withdrawn. File be consigned to record room after due compliance.

*Pronounced in open Court. Sd/-(Vandana Dhillon)
Presiding Officer, Pre Lok Adalat,
Assandh 5.8.2022.
UID No. HR-0462”*

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 quashed the FIR under Section 174-A IPC holding 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, Ist Class, Panchkula as well as FIR no. 64 dated 5.02.2017 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 of the IPC in proceedings under Section 138 of the Act of 1881, while declaring the petitioner therein as proclaimed offender, this High Court having relied upon after relying upon various judgments, observed 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. 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 of the IPC.

In another case titled as **“Ashok Madan vs. State of Haryana and another” reported as 2020(4) RCR (Criminal) 87** also it has been 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.”

Recently in another case in **CRM-M-52319-2021** as well on 15.12.2021 titled as **Sharvan Kumar Singh @ Sarvan Singh versus State of Haryana,** our High Court quashed the proceedings under Section 174-A IPC on the ground that in the main complaint under Section 138 of the Act of 1881 were withdrawn after a compromise between the parties.

In the instant case infact the parties have settled the dispute amicably involved in the complaint which was withdrawn finally vide order dated 05/08/2022 (Annexure P-7) wherein, the proceedings have come to an end. The judicial pronouncements discussed hereinabove shows that the courts have not hesitated to quash the FIR and continuation of proceedings under Section 174-A IPC where the original complaint had been dismissed even for want of prosecution.

The case in hand stands at much better footing where actually the dispute has been brought to an end and the parties are at peace. The continuation of proceedings under Section 174-A IPC will not only spark the dispute already resolved but will also consume the precious time of the Courts of law in dealing with the proceedings unwarrantedly. This Court deems and is of the considered opinion that the utmost endeavour shall be to bring an end to the dispute amount the parties wherein it seems that ends of justice can be met rather than continuing the proceedings on mere technicalities despite the fact that the issue involved in the main complaint has finally come to an end.

In view of the discussion as recorded hereinabove and the

case law adjudicated on the identical issue in the aforesaid judgments, further proceedings in the FIR in question would only amount to be an abuse of the process of law. Accordingly, FIR No.0468 dated 01.06.2022 registered under Section 174-A of the Indian Penal Code, 1860 at Police Station Assandh, District Karnal (Annexure P-8) is quashed alongwith all the subsequent proceedings arising therefrom.

The petition is allowed in the aforesaid terms.

11.11.2022
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(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned:-	Yes
Whether reportable:-	Yes