

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-39933-2020 (O&M)

Date of Decision: September 13, 2022

Amit Kumar

...Petitioner

Versus

State of Haryana and another

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Vipul Sachdeva, Advocate for the petitioner.

Ms. Aditi Girdhar, AAG, Haryana.

Mr. Karamveer Singh, Advocate for respondent No.2.

AMAN CHAUDHARY, J.(Oral)

CRM-1495-2021

Notice of motion in the main case was issued on 02.12.2020.

In the said order, the contention of learned counsel for the petitioner was recorded to the effect that the complaint instituted against the petitioner by the complainant was itself withdrawn by the complainant on 23.11.2020. However, the proceedings under Section 174-A have been initiated against the petitioner having been declared proclaimed persons for having absented from the hearing before the trial Court.

In view of the withdrawal of the complaint, the Court had directed that the petitioner would be admitted to bail upon his surrendering/appearing before the trial Court.

Learned State counsel had submitted that the petition was not maintainable in the absence of challenge to the order passed by the competent Court declaring the petitioner to be a proclaimed person, upon which the learned counsel for the petitioner had sought time to amend the petition including the said prayer as well.

Learned counsel for the petitioner submits that consequent to the direction passed by this Court in the aforesaid order, the petitioner had appeared before the trial Court and was admitted to bail on 09.12.2020.

In view of the objection raised by learned State, the present application has been filed for permitting the petitioner to make the aforesaid prayer in the main petition for quashing of the order dated 19.08.2019 (Annexure P-2) passed by the learned Judicial Magistrate 1st Class, Panchkula, whereby he was declared as proclaimed person.

For the reasons stated in the application, the same is allowed subject to all just exceptions.

Main Case

Present petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of FIR No.23, dated 30.01.2020 under Section 174-A IPC registered at Police Station Sector 14, Panchkula, Haryana against the petitioner and also the order dated 19.08.2019 (Annexure P-2) whereby the petitioner was declared as proclaimed person and all the consequential proceedings arising therefrom as the main case under Section 138 of the Negotiable Instruments Act, 1881 regarding which the FIR was registered has been dismissed as withdrawn on the basis of the compromise effected between the parties.

Learned counsel appearing for respondent No.2-complaint affirms the factum of withdrawal of the complaint after having received the cheque amount involved in the present case.

Learned State counsel also affirms the factum of the withdrawal of the complaint.

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.***

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 the cheque amount involved in the present case from the accused and in view of the judgment in case of ***Murli Jha***'s case (*supra*), the FIR No.23, dated 30.01.2020 under Section 174-A IPC registered at Police Station Sector 14, Panchkula, Haryana against the petitioner and also the order dated 19.08.2019 (Annexure P-2) whereby the petitioner was declared as proclaimed person and all the consequential proceedings arising therefrom, are 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 13, 2022
sarita

(AMAN CHAUDHARY)
JUDGE

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