

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

(270)

CRM-M-41946-2020
Date of Decision:-26.05.2022

Narinder Pal Singh

.....Petitioner

Versus

State of Punjab & another

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Neeraj Madaan, Advocate for the petitioner.

Mr. Sidakmeet Singh Sandhu, Asstt. A.G., Punjab.

None for respondent No.2.

JASJIT SINGH BEDI, J. (Oral)

This is a petition under Section 482 of Cr.P.C. for quashing the FIR No.56 dated 12.06.2017 registered under Section 174-A IPC (Annexure P-1) at Police Station Cantt. Ferozepur, District Ferozepur and all subsequent proceedings arising therefrom including the order dated 17.03.2018 whereby the charges under Section 174-A IPC have been framed against the petitioner in view of the fact that the main complaint under Section 138 NI Act was withdrawn by the complainant/respondent No.2 vide order dated 21.08.2018 (Annexure P-6) as the matter was compromised between the parties.

The learned counsel for the petitioner has submitted that respondent No.2 had filed complaint under Section 138 of the Negotiable Instruments Act bearing No.NACT/487/2015 (CNR No.PBFZ03-001342-2015) titled as "Kunwar Partap Versus Narinder" under Sections 138, 142 of the Negotiable Instruments Act read with Section 420 IPC in the Court of learned Chief Judicial Magistrate, Ferozepur. It is further stated that the petitioner was summoned to appear before the learned Trial Court in the

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above titled complaint case but the petitioner failed to appear before the learned Trial Court. It is also submitted that talks had already been going on between the parties to the above titled complaint. The learned Trial Court vide order dated 11.03.2014 issued the proclamation regarding requiring the appearance of the accused/petitioner under Section 82 Cr.P.C. for 13.04.2014. Thereafter, the learned Trial Court vide order dated 15.04.2014 had declared the petitioner as absconder and sent the intimation in this regard to the Police Station concerned as well as to the Senior Superintendent of Police, Ferozepur to take necessary action against the accused/petitioner under Section 174-A IPC. Thereafter, in an application for grant of anticipatory bail, the learned Sessions Court, Ferozepur directed the petitioner to surrender before the Investigating Officer and join the investigation vide order dated 10.08.2017. Accordingly, the present petitioner joined the investigation in view of the order dated 10.08.2017 and thereafter, the learned Additional Sessions Judge, Ferozepur vide order dated 06.09.2017 allowed the grant of anticipatory bail. It is also submitted that the final report under Section 173 Cr.P.C. has been filed before the learned Trial Court and charges under Section 174-A IPC have been framed against the petitioner vide order dated 17.03.2018 (Annexure P-5). Meanwhile, in the aforesaid complaint under Section 138 of the Negotiable Instruments Act filed by respondent No.2, a compromise has been effected between the parties and the statements of the parties with regard to the factum of compromise had also been recorded before the learned Trial Court. In view of that compromise, the complaint stands dismissed as withdrawn vide order dated 21.08.2018 (Annexure P-6), passed by the learned Judicial Magistrate, 1st Class, Ferozepur. It is further contended that no other complaint is filed by the complainant/respondent No.2 against the

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petitioner. It is submitted that the petitioner was never served in the said proceedings and he learnt about the said proceedings only after the police raided his house, after being declared as absconder. On learning about the same, the petitioner compromised the matter with the complainant/respondent No.2. He has further submitted that the matter has already been compromised pursuant to which, the complainant had appeared before the learned Judicial Magistrate, 1st Class, Ferozepur on 21.08.2018 and made a statement qua the same (P-6), whereupon the complaint in question has been permitted to be withdrawn.

Initially, the respondent No.2 was represented but now none has appeared on his behalf.

The learned State counsel has opposed the present petition and has submitted that the FIR has been correctly registered.

This Court has heard the learned counsel for the petitioner and the learned State counsel and has perused the paper-book.

From the above-said facts and circumstances, it is apparent that the present FIR was registered in view of the fact that the petitioner was declared as a proclaimed person in the proceeding under Section 138 of the Act of 1881. The impugned complaint under Section 138 of the Act of 1881 itself has been withdrawn. The counsel for the petitioner also placed on record order dated 14.05.2022 of the National Lok Adalat, Ferozepur, where after receipt of the full and final payment, the complaint under Section 138 of the Negotiable Instruments Act was dismissed as withdrawn.

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:-

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“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.*

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.”

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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 accused being declared an absconder in proceedings under Section 138 of the Act, 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 of a compromise having been effected was one of the main considerations for allowing the petition and setting aside the order declaring the petitioner therein as proclaimed person/absconder as well as for 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.

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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 an abuse of the process of court. A similar view has been expressed by this Court in “Anil Kumar Versus Jitender Kumar and another, CRM-M-5878-2022 decided on 06.04.2022”, “Anil Kumar Versus Jitender Kumar and another, CRM-M-5755-2022 decided on 06.04.2022” and “Varinder Kumar @ Virender Kumar Versus State of Haryana and another, CRM-M-42551-2021 decided on 19.04.2022”.

In the present case the proceedings under Section 138 NI Act have culminated in a settlement with the withdrawal of the complaint and consequential acquittal.

In view of the above, the present petition is allowed and the FIR No.56 dated 12.06.2017 registered under Section 174-A IPC (Annexure P-1) at Police Station Cantt. Ferozepur, District Ferozepur and all subsequent proceedings are hereby quashed.

26.05.2022

Jitesh

**(JASJIT SINGH BEDI)
JUDGE**

Whether speaking/reasoned:-
Whether Reportable:-

Yes/No
Yes/No