

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

Sr. No.117

CRM-M-43802-2022

Date of decision : 22.9.2022

Rajneesh Mishra

.....Petitioner(s)

VERSUS

State of Haryana

..... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr.Abhishek Sharma, Advocate for the petitioner

AMAN CHAUDHARY, J.

The present petition under Section 482 Cr.P.C. has been filed for quashing of FIR No.0848 dated 5.10.2017, registered under Section 174-A IPC at Police Station Suraj Kund, Faridabad, which has been registered consequent to order dated 26.9.2017 passed by learned Judicial Magistrate, 1st Class, Faridabad.

Learned counsel for the petitioner submits that the proceedings under Section 138 of the Negotiable Instruments Act, 1881 were initiated against the petitioner by filing a complaint instituted by complainant Shoukeen on account of dishonor of cheque, on which the petitioner was summoned to face the trial. Learned counsel for the petitioner further submits that the case was fixed for appearance of the petitioner on 26.9.2017, on that date, he failed to appear and straightway non-bailable warrants were issued against him.

Learned counsel for the petitioner draws the attention of this Court to Annexure P-5, dated 1.3.2018, the statement of the complainant

recorded before the JMIC, Faridabad, according to which, he had received full and final payment from the accused-petitioner and as such no longer wished to pursue the present complaint and sought permission to withdraw the same. On the basis of the said statement, learned JMIC, Faridabad vide order dated 1.3.2018, granted the permission to withdraw his complainant filed against the present petitioner.

In support of his submissions, learned counsel 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and circumstances wherein the complaint filed under Section 138 of the Negotiable Instruments Act, 1881, itself stands withdrawn, the proceedings initiated under Section 174-A IPC were quashed being an abuse of process of law:-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.**

Notice of motion.

At the asking of the Court, Mr. Gaurav Bansal, AAG,Haryana, accepts notice on behalf of the respondent-State and affirms the factum of compromise of the matter.

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 connection 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-M32612 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), FIR No.0848 dated 5.10.2017, registered under Section 174-A IPC at Police Station Suraj Kund, Faridabad, which has been registered consequent to order dated 26.9.2017 passed by learned Judicial Magistrate, 1st Class, Faridabad is quashed, subject to payment of costs of Rs.10,000/- to be deposited with the Punjab and Haryana High Court Bar Association Advocates Welfare Fund.

Disposed of.

22.9.2022
gsv

(AMAN CHAUDHARY)
JUDGE

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