

CRM-M-47383-2022 :1:

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-47383-2022

Date of Decision: October 14, 2022

KULDEEP KUMAR YADAV

...Petitioner

Versus

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Ranvijay Singh, Advocate
for the petitioner.

AMAN CHAUDHARY, J.(Oral)

Present petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No.1087, dated 23.07.2022, under Section 174-A of IPC, registered at Police Station Shivaji Nagar, District Gurugram along with all the consequential proceedings arising therefrom.

Learned counsel contends that complaint under Section 138 of the Negotiable Instruments Act was filed in the year 2018. He submits that petitioner was not served with the notice, consequently could not cause appearance before the trial Court and was declared proclaimed person vide order dated 21.02.2022, Annexure P-1. Consequent thereto FIR under Section 174-A of IPC was lodged against the petitioner.

Having been made aware of the same, the petitioner compromised the matter with the complainant. The complainant filed an application (Annexure P-3) dated 13.09.2022 admitting in para 2 thereof the

receipt of Rs.15,00,000/- by way of a demand draft dated 13.09.2022 and Rs.50,000/- in cash, enclosing the said draft thereto. The statement of the complainant was recorded on 20.09.2022 and the complaint was withdrawn vide order dated 26.09.2022.

Learned counsel submits that non-appearance in the case was neither wilful nor deliberate. He further submits that now the entire matter stands settled between the parties thus, continuation of these proceedings will amount to abuse the process of law.

Learned counsel for the petitioner places reliance upon the judgment of co-ordinate Bench of this Court passed on 24.02.2022 in **CRM-M-9556 of 2021 titled Jagat Singh Vs. State of Haryana**. Relevant part of this judgment is as thus:-

Learned counsel for the State, on instructions from ASI Satpal Singh, P.S. Jagadhri, verifies that complaint in question stands withdrawn by the complainant and the matter has been amicably resolved between the parties.

There is no dispute that the present FIR No.1090 dated 12.09.2019 was registered against the petitioner after he was declared a proclaimed person in the proceedings under Section 138 of the N.I. Act. Subsequent to the said proceedings, the petitioner has admittedly been discharged by the learned trial court on the basis of compromise arrived at between the parties and the complaint in question has since been dismissed as withdrawn. It also remains a debatable issue whether the petitioner has been served or not in the matter. In similar circumstances, proceedings have been quashed by this High Court in **Ranbir Singh v. State of Haryana and another, 2021(3) RCR (Criminal) 81 and Ram Kumar Rana v. State of Haryana and another, 2022(1) RCR (Criminal) 294. In the case titled Ashok Madan v. State of Haryana and another, 2020(4) RCR (Criminal) 87**, it is observed as under:-

“No doubt, the learned counsel for the respondent has vehemently argued that the offence under Section 174A IPC 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 proceeding sunder Section 174A IPC shall be abuse of the process of court.

Accordingly, the petition is allowed.”

Learned counsel for the petitioner also 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 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.1087, dated 23.07.2022, under Section 174-A of IPC, registered at Police Station Shivaji Nagar, District Gurugram along with all the consequential proceedings arising therefrom, is quashed, subject to payment of costs of Rs.10,000/- to be deposited with the Poor Patients' Welfare Fund at PGIMER, Chandigarh.

Disposed of.

October 14, 2022
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(AMAN CHAUDHARY)
JUDGE

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