

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

Sr. No.127

CRM-M-46680-2022

Date of decision : 12.10.2022

Vijay @ Vijay Kumar

.....Petitioner(s)

VERSUS

State of Haryana and another

..... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr.NK Ganga, Advocate for the petitioner

AMAN CHAUDHARY, J.

Present petition under Section 482 of the Code of Criminal Procedure has been filed setting aside the order dated 14.7.2022, Annexure P-2, consequent thereto FIR No.630, dated 9.8.2022, Annexure P-3, under Section 174-A of IPC, at Police Station Civil Lines Sirsa, District Sirsa and all the consequent proceedings arising therefrom, as the main complaint has already been withdrawn in view of the compromise arrived at between the parties.

Learned counsel submits that the petitioner was not in the knowledge of any proceedings pending against him in terms of the complaint under Section 138 of the Negotiable Instruments Act. It is only on receipt of a telephonic message from the police that he became aware that he had been declared as proclaimed person vide order dated 14.7.2022, Annexure P-2. It is his further submission petitioner approached to respondent No.2 and compromised the matter while paying the entire

amount of the cheque in question, consequent thereto an application was filed by respondent No.2 before the trial Court to withdraw the complaint, which was allowed vide order dated 8.9.2022, Annexure P4. He further submits that it was neither willful nor deliberate of him to have not appeared before the trial Court, had it not been for the fact that the summons were not received by him.

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and circumstances wherein the complaint filed under Section 138 of the Negotiable Instruments Act, 1881, itself stands withdrawn, the proceedings initiated under Section 174-A IPC were quashed being an abuse of process of law:-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

As no order prejudicial to the rights of the complainant, is being proposed to be passed by this Court and issuance of notice would

only further delay the matter, which would cause prejudice to the complainant and therefore, the present petition stands disposed of without issuance of notice to the complainant-respondent.

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), the continuation of

further proceedings would serve no useful purpose, order dated 14.7.2022, Annexure P-2, consequent thereto FIR No.630, dated 9.8.2022, Annexure P-3, under Section 174-A of IPC, at Police Station Civil Lines Sirsa, District Sirsa, is set aside, subject to payment of costs of Rs.5000/- to be deposited with the Poor Patients' Welfare Fund at PGIMER, Chandigarh.

Disposed of.

12.10.2022
gsv

(AMAN CHAUDHARY)
JUDGE

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