

CRM-M-50578 of 2022

:1:

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-50578 of 2022

Date of Decision: November 11, 2022

Jagdish Chand @ Kala

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Rahul Deswal, Advocate
for the petitioner.

AMAN CHAUDHARY, J.

Petition under Section 482 Cr.P.C for quashing of the order dated 03.09.2022 (Annexure P-2) passed in NACT No.976 of 2020, whereby the petitioner has been declared proclaimed person and FIR No.802 dated 19.09.2022 under Section 174-A IPC registered against the petitioner at Police Station Sirsa City.

Learned counsel for the petitioner submits that a complaint under Section 138 of Negotiable Instruments Act was instituted against the petitioner for dishonor of a cheque wherein summoning order was issued against the petitioner on 28.05.2021. It is his submission that no summons were served upon him, without first issuingailable warrants, the non-ailable warrants were issued based on tracking report of delivery of speed post vide order dated 11.03.2022.

Proclamation was issued on 08.06.2022 and the petitioner was was declared proclaimed person vide order dated 03.09.2022, Annexure P-2.

In pursuance thereto FIR under Section 174-A was registered against the petitioner on 19.09.2002 , Annexure P-3. It is his submission that petitioner made the entire payment of the cheque to the complainant, consequently the complaint itself was withdrawn on 23.09.2022, Annexure P-4. It is his further submission that petitioner had never received any summon or warrant and was never in the knowledge of the complaint being pending before the trial Court.

In support of his submissions, learned counsel places reliance upon the following judgments 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and circumstances wherein the complaint filed under Section 138 of the Negotiable Instruments Act, 1881, itself stands withdrawn, the proceedings initiated under Section 174-A IPC were quashed being an abuse of process of law:-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. Tanuj Sharma, AAG, Haryana, accepts notice on behalf of the respondent-State, who is unable to controvert the aforesaid.

This Court in the case of **Murli Jha** (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-M-32612 of 2020, Surender Singh v. State of Haryana and another decided on 12.01.2021. ”

Furthermore, in CRM-M-43813-2018 titled as "**Baldev Chand Bansal vs. State of Haryana and another**", decided on 29.01.2019, this Court has held as under:-

"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. 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."

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, and in view of the judgment in cases of **Murli Jha** and **Baldev Chand Bansal** (supra), FIR No.802 dated 19.09.2022 under Section 174-A IPC registered against the petitioner at Police Station Sirsa City which has been registered consequent to order dated 03.09.2022 passed by learned Judicial Magistrate, 1st Class, Sirsa is

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quashed, subject to payment of costs of Rs.5,000/- to be deposited with Poor Patients Welfare Fund at PGIMER, Chandigarh.

November 11, 2022 (AMAN CHAUDHARY)
rimpal JUDGE

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