

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

253

**CRM-M-50829-2022 (O&M)**  
**Date of decision: 09.11.2022**

**RAJESH**

....Petitioner

**Versus**

**STATE OF HARYANA**

...Respondents

**CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY**

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Present : Mr. Parminder Singh, Advocate  
for the petitioner.

Ms. Aditi Girdhar, AAG Haryana.

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**AMAN CHAUDHARY. J.**

Petition under Section 482 CrPC for quashing of the order dated 14.12.2021 (Annexure P-2) passed in NACT No.1920 of 2019 dated 02.09.2019, whereby the petitioner has, without any service of warrant and proclamation, wrongly declared proclaimed person and FIR No.382 dated 12.06.2022 under Section 174-A IPC registered against the petitioner at Police Station City Panipat, Annexure P-4.

Learned counsel submits that a complaint under Section 138 of the Negotiable Instruments Act, 1881 was instituted against the petitioner. He submits that the petitioner had no knowledge of the issuance of cheque and dishonour thereof. The poultry/hatchery business was controlled by the brother of the petitioner after separating as the poultry/hatchery work came in to the share of the brother, who was managing the affairs. The summons issued to the petitioner remained unserved consequently non-bailable warrants received back unexecuted. Vide order dated 22.03.2021, Annexure P-1, proclamation was issued

without effecting proper service upon him and vide order dated 14.12.2021, Annexure P-2 the petitioner was declared as proclaimed person. Thereafter, FIR No.382 dated 12.06.2022 under Section 174-A IPC was also registered on account of the order dated 14.12.2021. Learned counsel submits that on coming to know of this fact, immediately a settlement was arrived at between the complainant and the petitioner.

He draws the attention of this Court to the order dated 13.10.2022, Annexure P-3 the statement of the complainant recorded before the JMIC, Panipat, according to which that he does not want to pursue the present complaint and sought permission to withdraw the same. On the basis of the said statement, learned JMIC, Panipat vide order dated 13.10.2022, Annexure P-3 granted the permission to withdraw his complainant filed against the present petitioner. Learned counsel submits that non-appearance of the petitioner before the trial Court was neither wilful nor deliberate.

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, Ms. Aditi Girdhar, AAG Haryana, accepts notice on behalf of the respondent-State and affirms the factum of compromise of the matter.

In this case, notice has not been issued to the complainant as he has not been impleaded as respondent party and as no order prejudicial to the rights of the complainant, is being proposed to be passed by this Court.

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-M32612 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.382 dated 12.06.2022 under Section 174-A IPC registered against the petitioner at Police Station City Panipat which has been registered consequent to order dated 14.12.2021 passed by learned Judicial Magistrate, 1st Class, Panipat is quashed, subject to payment of costs of Rs.5,000/- to be deposited with Poor Patients Welfare Fund at PGIMER, Chandigarh.

(AMAN CHAUDHARY)  
JUDGE

November 09, 2022

S.Sharma(syr)

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