

243

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

CRM-M-52892-2022 (O&M)

Date of Decision: 21.12.2022

SHIVANI SAGGAR

....Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Kushagra Mahajan, Advocate
for the petitioner.

Mr. Harjinder S. Sidhu, AAG, Punjab.

Mr. Ankush Rampal, Advocate
for respondent No.2.

HARSH BUNGER, J. (Oral)

CRM-49881-2022

This is an application under Section 482 Cr.P.C for praying for exemption from filing the certified of Annexure R-1 and also seeking permission to place on record true copy of the same.

For the reasons mentioned in the application, the same is allowed. Annexure R-1 is taken on record subject to all justice exceptions.

CRM-M-52892-2022

Prayer in the instant petition filed under Section 482 Cr.P.C. is for quashing of FIR No.245 dated 31.08.2022 registered at Police Station Sadar, District Amritsar, under Section 174-A IPC along with all consequential proceedings therefrom on the basis of compromise (Annexure P-4) entered into between the parties.

Learned counsel for the petitioner submits that there were business dealings between the petitioner and respondent No.2-Shivam Fabrics and during the course of said dealings, a cheque was issued to one Sh. Surinder Kumar, partner of Shivam Fabrics, which was dishonoured on its presentation, culminating into the proceedings under Section 138 of the Negotiable Instruments Act. It is further submitted that in the said proceedings under Section 138 of the Negotiable Instruments Act, the petitioner was declared as a proclaimed person vide order dated 01.03.2017 and necessary intimation to this effect was sent to the concerned Station House Officer. He further submits that the petitioner was unaware of the said proceedings and upon learning about the same, he has settled the issue with respondent No.2-complainant vide compromise (Annexure P-4). Pursuant to said compromise (Annexure P-4), respondent No.2 has already withdrawn the complaint under Section 138 of the Negotiable Instruments Act. The relevant extract of order dated 08.09.2022 is reproduced hereunder :-

“File taken up today as counsel for the complainant moved an application for withdrawing the present complaint case. Complainant suffered statement that the compromise has been effected between parties. Compromise deed is duly reduced into writing and same is Ex.CZ. The original of the same is filed in CRM no.1404/2017. In the light of the abovesaid compromise deed, he withdraw the present complaint and same may be dismissed as withdrawn. Complainant is at liberty to reopen of the present complaint if any of conditions of the compromise deed Ex.CZ is not fulfill. In view of the statement suffered by complaint, the present complaint case stands dismissed as withdrawn. Intimation be given to the concerned police station regarding compromise has been effected between the parties and the matter has been withdrawn. File be

consigned to the record room, Amritsar after due compliance.”

Learned counsel for the petitioner has further referred to order dated 31.08.2022 passed by the learned Judicial Magistrate Ist Class, Amritsar, whereby, respondent No.2 had sought withdrawal of the application for lodging FIR No.245 dated 31.08.2022 under Section 174-A IPC against the present petitioner-Shivani Saggar. The relevant extract thereof reads as under :-

“Today Sh. Surinder Kumar Proprietor of complainant firm (applicant) suffered statement that the compromise regarding the present application has been effected between the parties and compromise deed duly reduced into writing to this effect and same is Ex. CX. As such, he does not want to proceed with the present application and same may kindly be dismissed as withdrawn in the light of the conditions mentioned in the compromise deed Ex.CX. In view of the statement so suffered by proprietor of the complainant, the present application in hand stands dismissed as withdrawn. Intimation regarding withdrawing the present application under section 174-A IPC being matter compromised be sent to the concerned Police Station immediately. Application be attached with the main file and be consigned to the record room after due compliance.”

Learned counsel for the petitioner further places reliance upon an order dated **26.10.2021** passed by a Co-ordinate Bench of this Court in **CRM-M-41261-2021** titled as **Daya Nand Sharma vs State of Haryana**, wherein, under somewhat similar circumstances, an FIR under Section 174-A of Indian Penal Code, 1860 along with all consequential proceedings arising therefrom on the basis of compromise were quashed.

In pursuance to notice of motion order in the present case, learned State counsel has appeared and opposed the present petition by

stating that the present FIR has been registered in pursuance of order dated 01.03.2017 (Annexure P-3) passed by Judicial Magistrate First Class, Amritsar. Hence, the present petition may be dismissed.

On the other hand, learned counsel for respondent No.2 has admitted the factum of settlement of matter under Section 138 of the Negotiable Instruments Act and also the withdrawal of complaint under Section 138 *ibid* vide order dated 08.09.2022 (Annexure P-5). He further submits that the respondent No.2 has no objection if FIR is quashed.

I have heard the learned counsel for the parties and have perused the paper book.

A co-ordinate Bench of this Court in **CRM-M-43813-2018** titled as “**Baldev Chand Bansal vs. State of Haryana and another**”, decided on 29.01.2019 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.

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Learned counsel for the petitioner has relied upon the decisions rendered by this Court in “Vikas Sharma vs. Gurpreet Singh Kohli and another (supra), 2017, (3) L.A.R.584, Microqual Techno Limited and others Vs. State of Haryana and another, 2015 (32) RCR (Cr.) 790 and “Rajneesh Khanna Vs. State of Haryana and another” 2017(3) L.A.R. 555 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 same, I find merit in the present petition and accordingly, present petition is allowed and the impugned order dated 24.10.2016 passed by Judicial Magistrate, 1st Class, Panchkula as well as FIR No.64 dated 15.02.2017 registered under Section 174-A of the

Indian Penal Code at Police Station Sector-5, Panchkula and all other subsequent proceedings arising thereof, are hereby quashed.”

In case titled as “**Ashok Madan vs. State of Haryana and another**” reported as 2020(4) RCR (Criminal) 87, it is held as under:-

“No doubt, the learned counsel for the respondent has vehemently argued that the offence under Section 174A I.P.C. 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 proceedings under Section 174A I.P.C. Shall be abuse of the process of court.

7. Accordingly, the petition is allowed. FIR No.446 dated 21.08.2017, registered under Section 174A I.P.C. At Police Station Kotwali, District Faridabad, as well as consequential proceedings shall stand quashed.”

Another co-ordinate Bench of this Court in a case bearing CRM-M-14623-2021 titled as “**Deepak vs. State of Haryana and another**”, decided on 17.02.2022, has held as under:-

“...Since, the proceedings under Section 138 of the Act of 1881 has been withdrawn and the present FIR has been registered on account of non-appearance of the petitioner, this Court feels that continuance of the proceedings in the present FIR would be an abuse of process of the Court.

Keeping in view the abovesaid facts and circumstances, as well as the authorities of law referred to above, the present petition is allowed and FIR No.969 dated 04.11.2018 registered under Section 174-A of IPC at Police Station Ballabgarh City, District Faridabad (Annexure P-3) and all the consequential proceedings arising therefrom, are ordered to be quashed qua the petitioner...”

A perusal of the above referred judgments would manifest that where an FIR under section 174-A of Indian Penal Code was registered consequent upon declaration of the accused in the proceedings under Section 138 of the Negotiable Instruments Act as “Proclaimed Person”, then upon

subsequent withdrawal of proceedings under Section 138 of the Negotiable Instruments Act on the basis of an amicable settlement, it has been observed that the continuation of proceedings under Section 174-A IPC shall be an abuse of the process of court.

In the present case, it is not in dispute that respondent No.2 had filed complaint under Section 138 of the Act of 1881 for dishonour of cheque and it is in the said proceedings that the order dated 01.03.2017 (Annexure P-2) was passed vide which the petitioner was declared as proclaimed person and intimation was sent to SHO concerned, whereupon the present FIR No.245 dated 31.08.2022 was registered under Section 174-A of the Indian Penal Code, 1860 (Annexure P-1) at Police Station Sadar, District Amritsar. Thereafter, the matter was compromised between the parties and complainant/respondent No.2 had withdrawn the complaint under Section 138 of the Act of 1881.

Keeping in view the abovesaid facts and circumstances, as well as the authorities of law referred to above, the present petition is allowed and FIR No.245 dated 31.08.2022 registered under Section 174-A of the Indian Penal Code, 1860 (Annexure P-1) at Police Station Sadar, District Amritsar and all the consequential proceedings arising therefrom, are ordered to be quashed qua the petitioner.

The petition is disposed of in aforestated terms.

21.12.2022
Amandeep

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No