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

**CRM-M-54802-2022 (O&M
Date of Decision: 06.12.2022**

SUBHASH KUMAR

....Petitioner

Versus

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Virender Soni, Advocate
for the petitioner.

HARSH BUNGER, J. (Oral)

This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.320 dated 05.08.2022 registered under Section 174-A of the Indian Penal Code, 1860 (Annexure P-2) at Police Station Sector 7 Panchkula, District Panchkula and all the consequential proceedings arising therefrom.

Learned counsel for the petitioner has submitted that in the present case, a complaint under Section 138 of the Negotiable Instruments Act, 1881 was filed by one Rainbow Crop Health Ltd (respondent No.2) against the present petitioner for dishonour of the cheque and in the said complaint, the petitioner was wrongly declared as proclaimed person vide order dated 13.06.2022 (Annexure P-1) and an intimation was sent to concerned SHO by the Judicial Magistrate First Class, Panchkula to register the FIR in respect of the same and in pursuance of the said intimation, the present FIR has been registered. It is submitted that upon coming to know about the pendency of complaint under Section 138 of Negotiable

instruments Act, 1881, he immediately approached respondent No.2 (complainant) and settled the matter with him. Subsequent thereto, the matter was compromised in Daily Lok Adalat and the counsel for respondent No.2 suffered a statement before Judicial Magistrate First Class, Panchkula not to pursue the complaint and sought withdrawal of the same. On the basis of the said statement, the learned Judicial Magistrate First Class, Panchkula granted permission to withdraw the complaint vide its order dated 26.09.2022 (Annexure P-3). It is further submitted that once the complaint under Section 138 of the Negotiable Instruments Act has been withdrawn, the present FIR under Section 174-A deserves to be quashed.

Notice of motion.

On asking of the Court Mr. Ram Kumar Singla, DAG, Haryana, who is present in the Court, accepts notice on behalf of the respondent-State of Haryana and has opposed the present petition by stating that the present FIR has been registered in pursuance of order dated 13.06.2022 (Annexure P-1) passed by Judicial Magistrate First Class, Panchkula. Hence, the present petition may be dismissed.

At this stage, Ms. Ritu Singh, Advocate for Mr. Ashish Sheokand, Advocate puts her appearance and accepts notice on behalf of respondent No.2 and 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 26.09.2022 (Annexure P-3).

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 (Crl.) 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 13.06.2022 (Annexure P-1) was passed vide which the petitioner was declared as proclaimed person and intimation was sent to SHO concerned, whereupon the present FIR No.320 dated 05.08.2022 registered under Section 174-A of the Indian Penal Code, 1860 (Annexure P-2) at Police Station Sector 7

Panchkula, District Panchkula. 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 as per order dated 26.09.2022, which is reproduced hereinbelow:-

Present: Sh. Ashish Sheokand, Adv for complainant.

Accused no. 2 Subhash Kumar (being proprietor of accused no. 1) declared proclaimed person vod 13.06.2022.

Today the case was fixed for filing list of property of accused.

At this stage, complainant counsel has suffered a statement to the effect that the matter has been compromised between complainant and accused. Therefore, he does not intend to pursue the present complaint and withdraws the same on behalf of complainant. Heard. In view of the statement of complainant counsel, instant complaint stands **dismissed as withdrawn**. File be consigned to the record room, after due compliance.

Pronounced in Daily Lok Adalat:

(Pallavi Ojha)
JMIC/Panchkula
UID No.HR-0439

Date of order:-26.09.2022

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.320 dated 05.08.2022 registered under Section 174-A of the Indian Penal Code, 1860 (Annexure P-2) at Police Station Sector 7 Panchkula, District Panchkula and all the consequential proceedings arising therefrom, are ordered to be quashed qua the petitioner.

06.12.2022

Amandeep

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No

(HARSH BUNGER)
JUDGE