

119 IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

\*\*\*\*

CRM-M-55634-2022

DECIDED ON: 12<sup>th</sup> DECEMBER, 2022

JINDER SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Ms. Meenu, Advocate  
for the petitioner.

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**SANDEEP MOUDGIL, J (ORAL)**

Prayer in the present petition is for quashing of complaint No. NACT/93/2017 dated 21.11.2017 titled as **“Surjit Singh Vs. Jinder Singh”**, under Section 138 of the Negotiable Instruments Act, 1881 (for short 'Act') (Annexure P-1) along-with order dated 06.06.2019 (Annexure P-3) passed by learned Sub-Divisional Judicial Magistrate, Nihal Singh Wala, District Moga, whereby petitioner has been declared as proclaimed offender and a direction was issued to the police to register an FIR under Section 174-A IPC against the petitioner and all the subsequent proceedings arising therefrom on the basis of compromise dated 04.11.2022 (Annexure P-4).

Learned counsel for the petitioner has submitted that in the present case, a complaint was filed by Surjit Singh against the petitioner under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter to

be referred as “the Act of 1881”) and in the said complaint, the petitioner was declared as proclaimed offender vide order dated 06.06.2019 (Annexure P-3) and in the said order, direction was given to the SHO concerned for initiation of proceedings under Section 174-A of the IPC.

Learned counsel for the petitioner has further submitted that with the intervention of respectable persons and villagers, both the parties have settled their dispute amicably vide compromise dated 04.11.2022 (Annexure P-4).

Notice of motion.

On the asking of Court, Mr. Rajiv Verma, DAG, Punjab accepts notice on behalf of respondent-State whereas, Mr. Shadab Ahmad, Advocate, has put in appearance on behalf of respondent No.2 and filed his power of attorney, which is taken on record.

Learned State counsel as well as counsel for respondent No.2 does not dispute the factum of compromise.

Learned counsel for the petitioner has placed reliance upon the orders dated 20.07.2022 and 24.08.2022 respectively, passed by a co-ordinate Bench of this Court in CRM-M-46062-2017, titled as **“Jatin Dhawan and another versus State of Haryana and another”** and CRM-M-12534-2022, titled as **“Krishan Kumar versus State of Haryana and another”**, wherein it has been held that once the main case is dismissed as withdrawn the continuation of proceedings under Section 174-A IPC shall be an abuse of process of law.

Another Co-ordinate Bench of this Court in a case titled as **“Ashok Madan vs. State of Haryana and another” reported as 2020 (4)**

**RCR (Criminal) 87** has also 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 174-A 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.”*

A perusal of the relevant extract of the above judgment would show that where the main case was dismissed for want of prosecution, it was observed that the continuation of proceedings under Section 174-A of the IPC shall be an abuse of the process of court.

In the case in hand it is admitted that the compromise (Annexure P-4) has been effected between the parties and no prejudice would be caused to either of the parties. Since the offence under Section 138 of the Act is against any individual i.e. respondent No.2, it would be just and equitable to exercise discretion of this Court under Section 482 Cr.P.C.

This Court is also of the considered view that the Full Bench of this Court in ***Kulwinder Singh and others vs. State of Punjab, 2007 (3) RCR (Criminal) 1052***, has held that High Court has power under Section

482 Cr.P.C. to allow the compounding of non-compoundable offence and quash the proceedings where it is of the opinion that the same is required to prevent the abuse of the process of law or otherwise to secure the ends of justice.

There is no dispute to the admitted proposition of law that offence under Section 138 of the Act is compoundable in view of Section 147 of the Act. However, herein a peculiar situation has arisen as the petitioner has been declared proclaimed offender vide impugned order dated 06.06.2019 (Annexure P-3) passed by learned Sub Divisional Judicial Magistrate, Nihal Singh Wala and police authority was directed to register the proceedings under Section 174-A IPC against the petitioner-accused.

It would only delay the trial proceedings in a case, which is otherwise been settled in the light of the compromise dated 04.11.2022 (Annexure P-4).

This Court is also sanguine of the fact that instead of adjudicating as to which party is wrong, peace is the better option if, can be arrived at between two private parties entangled in litigation by bringing an end to such litigation, which otherwise may go on for years together putting them through strenuous exercise of leading evidence, facing cross-examination and than having the order of acquittal/conviction subject to challenge further.

Instant case is a fit example where this Court shall exercise its inherent powers under Section 482 Cr.P.C. with discretion, no doubt which should be exercised cautiously, sparingly and not in a routine manner,

therefore the petitioner is directed to surrender before the trial Court and move an application for bail.

In case any such application is moved by the petitioner after surrender, before the trial Court, the same is expected to be decided in accordance with law on the same very day.

However, nothing observed hereinabove, shall be construed as an expression of opinion on the merits of the case, though it shall be open for the parties to avail appropriate remedy in the light of compromise (Annexure P-4) as averred in the present petition for quashing of the complainant under Section 138 of the Act at appropriate stage.

In view of discussions made hereinabove, the present petition is allowed and the order dated 06.06.2019 (Annexure P-3) passed by the Sub Divisional Judicial Magistrate, Nihal Singh Wala, whereby the petitioner had been declared as proclaimed offender and police authority was directed to initiate the proceedings under Section 174-A IPC with all the subsequent proceedings arising therefrom, are hereby quashed qua the petitioner.

**(SANDEEP MOUDGIL)**  
**JUDGE**

**12<sup>th</sup> DECEMBER, 2022.**

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|---------------------------------|----------|
| 1. Whether speaking/ reasoned : | Yes / No |
| 2. Whether reportable :         | Yes / No |