

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

CRM-M-55710-2022

Date of Decision:01.12.2022

NIKHIL KUKNA

..... Petitioner

Versus

STATE OF HARYANA AND ANOTHER

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. D.S. Virk, Advocate for the petitioner.

Ms. Dimple Jain, AAG, Haryana.

JAGMOHAN BANSAL, J. (Oral)

The instant petition has been filed under Section 482 Cr.P.C., seeking quashing FIR No. 0185 dated 22.04.2022, registered under Section 174-A IPC, at Police Station Sadar Sirsa, District Sirsa (Annexure P-2) and all the consequent proceedings arising therefrom.

The brief facts emerging from the record and necessary for the adjudication of the present petition are that petitioner availed a loan for a sum of Rs.90,000/- from the respondent Bank. The petitioner in discharge of his legal liability issued a post dated cheque of Rs.40,000/- dated 18.04.2019 bearing No.491151 drawn on Punjab National Bank which was returned with remarks "Funds Insufficient". Respondent No.2 took its legal course as provided under Section 138 of Negotiable Instruments Act (for short, 'NI Act').

Learned counsel for the petitioner submits that the petitioner had never received any summons from the Trial Court which resulted into his non-appearance before the Court below and which entailed proceedings under Section 82/83 Cr.P.C. Learned Judicial Magistrate 1st

Class Sirsa, declared the petitioner a proclaimed offender and directed the concerned IO, Police Station Sirsa Sadar to register the FIR against him. In compliance of orders of Judicial Magistrate 1st Class Sirsa an FIR No.0185 dated 22.04.2022 came to be registered under Section 174-A of IPC.

Subsequently, parties entered into a compromise and as per compromise, the petitioner agreed to pay the cheque amount in question and respondent No.2 had to withdraw the complaint. Thereafter, respondent No.2 filed an application seeking withdrawal of his complaint and learned trial Court vide order dated 25.04.2022 (Annexure P-4) ordered to dismiss the complaint as withdrawn.

Learned counsel for the petitioner would contend that respondent No.2 has already received payment of cheque in dispute and complaint under Section 138 of NI Act stands withdrawn, therefore, continuance of proceedings under Section 174A of IPC amounts to abuse of process of law as proceedings under Section 174A of IPC are consequential in nature.

Learned State counsel on being confronted above-stated facts would submit that the main matter i.e. dishonour of cheque has already been settled between the parties, however, proceedings under Section 174A were initiated on account of non-appearance of petitioners before learned trial Court.

Learned State counsel does not seriously dispute the prayer of the petitioners especially in view of the fact that the main matter has already been settled between the parties and State is not an aggrieved party.

I have heard arguments of both sides and perused the record. It is undisputed fact that main dispute between petitioners and respondent No.2 stands settled. The dispute between the parties was confined to dishonour of cheque and respondent No.2 has already received full and final payment. The proceedings under Section 174A were initiated on account of declaration of petitioner as proclaimed offender. The petitioner had settled the matter. There seems to be no reason to continue with proceedings under Section 174A especially when petitioner have already appeared before the learned trial Court and settled the main dispute.

In view of the above-stated facts and circumstances, this Court is of the considered opinion that the present petition deserves to be allowed and accordingly allowed. FIR No. 0185 dated 22.04.2022, registered under Section 174-A IPC, at Police Station Sadar Sirsa, District Sirsa (Annexure P-2) and all other consequential proceedings arising therefrom are quashed *qua* the petitioner.

(JAGMOHAN BANSAL)
JUDGE

01.12.2022
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>