

262 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-56085-2022
Date of Decision: 19.12.2022

Jogendra Jat

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Kushager Goyal, Advocate for the petitioner.

Mr. N.S. Panwar, DAG, Haryana.

HARSH BUNGER J. (ORAL)

This is a petition filed on behalf of the petitioner under Section 482 Cr.P.C. for quashing of FIR No.688 dated 28.08.2022, under Section 174-A IPC (Annexure P-1), registered at Police Station Sirsa City, District Sirsa, Haryana, arising out of complaint bearing NACT No.307 of 2021, titled as *“Thakar Chemicals Ltd. Vs. M/s Kisan Khad Beej Bhandar and another”* filed under Section 138 of the Negotiable Instruments Act and all the consequential proceedings arising therefrom, *inter alia*, stating that the matter has been compromised between the parties.

Learned counsel for the petitioner has submitted that in the present case, a complaint under Section 138 of the Negotiable Instruments Act was filed at the behest of complainant (Vimal Kumar) 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 08.08.2022 (Annexure P-3) and an intimation was sent by Judicial

Magistrate First Class, Sirsa to Superintendent of Police, Sirsa for directing concerned Station House Officer to register an FIR in respect of the same and in pursuance of the said intimation, the present FIR was registered. It is submitted that during pendency of the present case, the matter got amicably settled between the petitioner and complainant and subsequent thereto, complainant-Vimal Kumar suffered a statement (Annexure P-4) before the Judicial Magistrate Ist Class, Sirsa, not to pursue the complaint bearing NACT No.307 of 2021 and sought withdrawal of the same. On the basis of said statement, the Judicial Magistrate First Class, Sirsa granted permission to withdraw the complaint vide its order dated 12.09.2022 (Annexure P-5). It is further submitted that once the complaint under Section 138 of the Negotiable Instruments Act has been withdrawn, the present FIR under Section 174-A IPC deserves to be quashed.

Learned State counsel has not disputed the fact that the complaint (NACT No.307 of 2021) stands withdrawn vide order dated 12.09.2022 (Annexure P-5), passed by the Judicial Magistrate Ist Class, Sirsa and he does not oppose the prayer of petitioner for quashing of FIR.

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

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

xxx xxx xxx

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 174-A 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 174-A 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 174-A I.P.C. At Police Station Kotwali, District Faridabad, as well as consequential proceedings shall stand quashed.”

Another co-ordinate Bench of this Court vide order dated 17.02.2022, passed in **CRM-M-14623-2021**, titled as **“Deepak vs. State of Haryana and another”**, 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 IPC 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 the complainant had filed a complaint under Section 138 of the Negotiable Instruments Act for

dishonour of cheque and it is in the said proceedings that order dated 08.08.2022 (Annexure P-3) was passed by the Judicial Magistrate Ist Class, Sirsa, vide which the petitioner was declared as proclaimed person and as a consequential action thereof, the present FIR No.688 dated 28.08.2022, under Section 174-A IPC (Annexure P-1), was registered at Police Station Sirsa City, District Sirsa, Haryana. Thereafter, the matter was compromised between the parties and complainant had withdrawn the complaint under Section 138 of the Negotiable Instruments Act as per order dated 12.09.2022 (Annexure P-5), which is reproduced hereinbelow:-

*“Present: Complainant with Sh. Sanjay Goyal, learned Adv.
For complainant.*

*File summoned from record room as an application
for withdrawal of the case has been moved on behalf of
complainant. The present complaint is **ordered to be
restored to its original number.***

*Complainant has appeared before the court hand has
made a statement in writing in this court that accused has
paid the entire cheque amount alongwith compensation to
him and now he does not want to proceed with the present
complaint against the accused.*

*In view of the statement of complainant, the present
complaint stands dismissed as withdrawn. File after due
completion and registration be consigned to records.*

*(Vishal)
Satish Kumar, Steno JMIC, Sirsa/12.9.2022
(UID No. HR-0546)”*

Thus, after the withdrawal of proceedings under Section 138 of the Negotiable Instruments Act on the basis of amicable settlement, continuation of proceedings under Section 174-A IPC shall be an abuse of process of law.

Keeping in view the aforementioned facts and circumstances,

as well as the authorities of law referred to above, the present petition is allowed and FIR No.688 dated 28.08.2022, under Section 174-A IPC (Annexure P-1), registered at Police Station Sirsa City, District Sirsa, Haryana and all the consequential proceedings arising therefrom, are quashed qua the petitioner herein.

All pending application(s), if any, shall stand disposed of.

19.12.2022*Apurva***(HARSH BUNGER)
JUDGE**

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