

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

CRM-M-55674-2022 (O&M)
Date of Decision: 01.12.2022

SOBRAN SINGH

....Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Ashish Gupta, 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.500 dated 19.07.2022 registered under Section 174-A of the Indian Penal Code, 1860 (hereinafter to be referred as “the IPC”) at Police Station Sector 32-33, District Karnal (Annexure P-2) and all the consequential proceedings arising therefrom.

Learned counsel for the petitioner submits that one firm namely Medley Crop Sciences had filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 (in short “N.I. Act”) and in the said complaint, the petitioner was declared as proclaimed person. It is further submitted that thereafter, the petitioner was arrested in that case on 17.09.2022 and sent to judicial custody. The petitioner settled the matter with the complainant (Medley Crop Sciences) and he was released on bail vide order dated 23.09.2022 (Annexure P-3). Since the matter in complaint case was already settled and nothing was due towards the petitioner, the complainant (Medley Crop Sciences) of the complaint Annexure P-1 withdrew his complaint vide order dated 07.10.2022 (Annexure P-4). It is stated that in view of the same, keeping the

present FIR alive would be an abuse of the process of the Court.

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 20.12.2019 passed by Judicial Magistrate First Class, Karnal. Hence, the present petition may be dismissed.

This Court has heard the learned counsel for the parties and has 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.

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 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 complainant (Medley Crop Sciences) had filed complaint under Section 138 of the Act of 1881 against present petition for dishonour of cheque bearing No.240226 dated 12.12.2018 amounting to Rs.1,98,164/-. In the said proceedings, an order dated 20.12.2019 was passed vide which the petitioner was declared as proclaimed person and intimation was sent to SHO concerned, whereupon the present FIR No.500 dated 19.07.2022 registered under Section 174-A of the Indian Penal Code, 1860 at Police Station Sector 32-33, District Karnal (Annexure P-2). Thereafter, the matter was compromised between the parties and complainant (Medley Crop Sciences) had withdrawn the complaint under Section 138 of the Act of 1881 as per order dated 07.10.2022, which is reproduced hereinbelow:-

“Present: Sh. Kuldeep Singh Trar Advocate for the complainant

*Today, Id. counsel for complainant appeared and suffered a statement that as per the instructions of the complainant, he does not want to pursue the present complaint and withdraws the same. Heard. Keeping in view the above said statement, present complaint is **dismissed as withdrawn**. File after needful be consigned to the record-room.*

*Announced.
7.10.2022*

*(Neelam)
Presiding Officer,
Daily Lok Adalat-cum
Judl. Magistrate 1st Class,
Karnal. UID no.-HR-00468”*

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.500 dated 19.07.2022 registered under Section 174-A of the Indian Penal Code, 1860 at Police Station Sector 32-33, District Karnal (Annexure P-2) and all the consequential proceedings arising therefrom, are ordered to be quashed qua the petitioner.

01.12.2022
Amandeep

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No