

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

(122)

CRM-M-55913-2022(O&M)
Date of Decision:-02.12.2022

Satyavan

.....Petitioner

Versus

State of Haryana and anr.

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Rakesh Kumar Lathwal, Advocate,
for Mr.Naveen Kumar Jaglan Advocate for the petitioner.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana.

JASJIT SINGH BEDI, J. (Oral)

This is a petition under Section 482 of Cr.P.C. has been filed for quashing of the impugned order dated 21.08.2018 (Annexure P-1) passed by the Judicial Magistrate Ist Class, Panipat in complaint No.569 of 2017 dated 09.03.2017 under Section 138 of the Negotiable Instruments Act, 1881 as well as all other subsequent proceedings arising therefrom including FIR No.336 dated 06.09.2018 under Section 174-A IPC registered at Police Station Matlauda, District Panipat as the main complaint No.569 of 2017 has already been ordered to be dismissed as withdrawn at the instance of the complainant-respondent No.2.

2. The brief facts of the case are that a complaint under Section 138 of Negotiable Instruments Act was instituted against the petitioner/accused at the instance of the complainant-respondent

CRM-M-55913-2022(O&M)

No.2/HDFC Bank. As the petitioner/accused did not appear before the Trial Court to face trial, he was declared a proclaimed person as per the order dated 21.08.2018 (Annexure P-1) pursuant to which an FIR No.336 dated 06.09.2018 registered under Section 174-A of IPC at Police Station Matlauda, District Panipat (Annexure P-2) came to be instituted against him.

Subsequently, a compromise was effected between the parties and the complaint was ordered to be dismissed as withdrawn in terms of the order dated 06.11.2018 (Annexure P-3). In view of the dismissal of the complaint under Section 138 of Negotiable Instruments Act on the basis of the compromise, the present petition for quashing of the aforesaid impugned order dated 21.08.2018 (Annexure P-1) passed by the Judicial Magistrate Ist Class, Panipat in complaint No.569 of 2017 dated 09.03.2017 and FIR No.336 dated 06.09.2018 registered under Section 174-A of IPC (Annexure P-2) has been filed.

The learned counsel for the petitioner submits that the petitioner is serving in the Delhi Police for the last 25 years and was residing at Delhi alongwith his family members and rarely visits his native village Dumiyana i.e. the address given by respondentNo.2 in the complaint and this was the only reason that the petitioner came to know about the complaint at a later stage after being declared as a proclaimed person. On learning about the same, the petitioner compromised the matter with the complainant/respondentNo.2. Thereafter, on 06.11.2018, the counsel for the complainant in the Trial Court got recorded his statement that as per his instructions, the complete payment of the cheque amount has been made by the accused (petitioner herein) and the complainant-Bank did not want to proceed further with the present complaint and wanted to withdraw the

CRM-M-55913-2022(O&M)

same. Based on the said statement, the complaint was ordered to be dismissed as withdrawn on 06.11.2018(P-3).

Notice of motion.

Mr. Kanwar Sanjiv Kumar, Assistant Advocate General, Haryana, present in the Court, accepts notice on behalf of the respondent-State. He has opposed the present petition and has submitted that the FIR has been correctly registered.

This Court has heard the learned counsel for the petitioner and the learned State counsel and has perused the paper-book.

From the above-said facts and circumstances, it is apparent that the present FIR was registered in view of the fact that the petitioner was declared as a proclaimed person in the proceeding under Section 138 of the Act of 1881. The impugned complaint under Section 138 of the Act of 1881 itself has been withdrawn.

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)*

CRM-M-55913-2022(O&M)

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.

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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.”

A perusal of the above judgment would show that in a similar case where the FIR had been registered under Section 174-A IPC in view of the order passed in proceedings under Section 138 of the N.I. Act, while declaring the petitioner therein as proclaimed offender, a co-ordinate Bench after relying upon various judgments observed that once the main petition under Section 138 of the N.I. Act stood withdrawn in view of an amicable settlement between the parties, the continuation of proceedings under Section 174-A IPC was nothing but an abuse of the process of law. The said aspect was one of the main considerations for allowing the petition and

CRM-M-55913-2022(O&M)

setting aside the order declaring the petitioner therein as a proclaimed person as well as for quashing of the FIR under Section 174-A IPC.

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 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 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.”

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 IPC would be an abuse of the process of the Court. A similar view has been expressed by this Court in “Anil Kumar Versus Jitender Kumar and another, CRM-M-5878-2022 decided on 06.04.2022”, “Anil Kumar Versus Jitender Kumar and another, CRM-M-5755-2022 decided on 06.04.2022”

CRM-M-55913-2022(O&M)

and“Varinder Kumar @ Virender Kumar Versus State of Haryana and another,CRM-M-42551-2021decided on 19.04.2022”.

In the present case the proceedings under Section 138 NI Act have culminated in a settlement with the withdrawal of the complaint under Section 138 NI Act.

In view of the above, the present petition is allowed and the impugned order dated 21.08.2018 (Annexure P-1) passed by the Judicial Magistrate Ist Class, Panipat in complaint No.569 of 2017 dated 09.03.2017 under Section 138 of the Negotiable Instruments Act, 1881 as well as all other subsequent proceedings arising therefrom including FIR No.336 dated 06.09.2018 under Section 174-A IPC registered at Police Station Matlauda, District Panipat, are hereby quashed.

02.12.2022

sukhpreet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned:-
Whether Reportable:-

Yes/No
Yes/No