

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

229

CRM-M-48680-2019

Date of Decision: September 09, 2022

Parjesh Malhotra

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. K.S. Dhaliwal, Advocate for the petitioner.

Mr. Kamal Preet Bawa, AAG, Punjab.

Mr. Vinod Kumar, Advocate
for respondent No.2-complainant.

AMAN CHAUDHARY, J.(Oral)

Present petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No.69, dated 10.04.2017, under Section 174-A of IPC, registered at Police Station Navi Baradari, District Jalandhar, along with all the consequential proceedings arising therefrom, on the basis of the compromise dated 29.10.2019.

Learned counsel for the petitioner submits that the proceedings under Section 138 of the Negotiable Instruments Act, 1881 were initiated against the petitioner by filing a complaint instituted by complainant Poonam @ Punam, in which the petitioner was declared as proclaimed person by the trial Court as after expiry of 30 days of proclamation proceedings, none had appeared on his behalf and as per provisions of Section 82 Cr.P.C., necessary intimation was given to the concerned S.H.O. to register as case under Section 174-A IPC against the petitioner.

Learned counsel for the petitioner further submits that the case was fixed for appearance of the petitioner on 17.05.2019, on that date, he failed to appear and straightway non-bailable warrants were issued against him for 04.09.2019. It is also submitted that on the basis of statement of the complainant to the effect that she had compromised the matter with the petitioner, he was granted concession of bail by the trial Court vide order 17.09.2019.

Learned counsel for the petitioner has produced the copy of order dated 14.12.2019 passed by the Presiding Officer, National Lok Adalat, Jalandhar, wherein it has been recorded that the complainant had suffered a statement in the Court to the effect that a compromise has been effected with the accused-petitioner and she had received full and final payment of Rs.6,00,000/- from the accused-petitioner. As such, she did not want to proceed with the complaint and the same may be dismissed as withdrawn. Accordingly, the complaint was dismissed as withdrawn. The said order reads as under:-

“File taken up today in the National Lok-Adalat. Today Sh. Harjot Pal Singh Bhasin Advocate filed power of attorney on behalf of the complainant. Complainant suffered her statement in the court that compromise has been effected with the accused and as per compromise she had received full and final payment of Rs.6,00,000/- from the accused. As such she does not want to proceed with the present case and the same may be dismissed as withdrawn. Heard. It have perused the file. As the offence U/s 138 of the Negotiable Instruments Act, 1881 is compoundable U/s 147 of the said Act, therefore, complainant is allowed to withdraw the present complaint. Accordingly present complaint stands dismissed as withdrawn. Accused stands discharged. File be consigned to the record room.”

Learned counsel for the petitioner places reliance upon the following judgments of various co-ordinate Benches of this Court to contend that in the similar set of facts and circumstances wherein the complaint filed under Section 138 of the Negotiable Instruments Act, 1881, itself stands withdrawn, the proceedings initiated under Section 174-A IPC were quashed being an abuse of process of law:-

1. ***“Murli Jha vs State of Haryana”, 2021(3) R.C.R.(Criminal)563.***
2. ***“Microqual Techno Limited and others vs State of Haryana”, 2015(3) R.C.R.(Criminal) 790.***
3. ***“Ram Kumar Rana vs State of Haryana and another”, 2022(1) R.C.R. (Criminal) 294.***
4. ***“Ashok Madan vs State of Haryana and another”, 2020(4) R.C.R. (Criminal) 87.***
5. ***“Jatin Dhawan and anr. vs State of Haryana and anr., in CRM-M No.46062 of 2017 decided on 20.07.2022.***

Learned State counsel as well as learned counsel appearing on behalf of the complainant affirm the factum of compromise effected between the parties and do not raise any objection to the quashing of the FIR in question.

A co-ordinate Bench in ***Murli Jha***'s case (*supra*) held as under:-

“8. I have considered the rival submissions of the parties. The FIR is an outcome of the order declaring the petitioner as a proclaimed person in proceedings initiated under section 138 of NI Act which stands settled, the complaint has been withdrawn and the proceedings against the accused-petitioner were dropped. In such circumstances, the continuation of prosecution under Section 174-A IPC in

*pursuance to the orders passed by the trial Court cannot be permitted to continue. Reference in this connectin may be made to the judgments of this Court in **Microqual Techno R.C.R. (Criminal) 790; Rajneesh Khanna v. State of Haryana and another, 2017 (3) L.A.R. 555 and CRM-M-32612 of 2020, Surender Singh v. State of Haryana and another decided on 12.01.2021.** ”*

In view of the aforesaid facts and circumstances of the case that the complaint filed under Section 138 of the Negotiable Instruments Act, 1881, itself having been withdrawn, based on statement of the complainant that he had received full and final payment from the accused and in view of the judgment in case of **Murli Jha's** case (*supra*), the FIR No.69, dated 10.04.2017, under Section 174-A of IPC, registered at Police Station Navi Baradari, District Jalandhar, alongwith all the consequential proceedings arising therefrom, is quashed.

Disposed of.

September 09, 2022

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**(AMAN CHAUDHARY)
JUDGE**

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