

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

CRM-M-58939-2022

Date of Decision: 16.12.2022

VARINDER RAI

..... Petitioner

Versus

STATE OF HARYANA AND ANOTHER

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Kamal Chaudhary, 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 of FIR No. 1520 dated 26.09.2022, registered under Section 174-A IPC, at Police Station Shivaji Nagar, District Gurugram (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 respondent No.2 delivered 25 split A.C to the petitioner and in discharge of his legal liability petitioner issued cheque 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 due to financial crisis and losses suffered by him in his business became depressed which resulted into his non-appearance before the Court below, thus, while the trial under Section 138 of Negotiable Instrument

Act, 1881 was pending before the learned JMIC, Gurugram, the petitioner failed to appear on the date fixed which entailed proceedings under Section 82/83 Cr.P.C. Learned JMIC, Gurugram declared the petitioner proclaimed offender and directed the concerned IO, Police Station Shivaji Nagar, District-Gurugram to register the FIR against him. In compliance of orders of JMIC, Gurugram, an FIR No.1520 dated 26.09.2022 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complaint before Lok Adalat and vide order dated 01.11.2022 (Annexure P-3) Lok Adalat has dismissed the complaint as withdrawn.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that respondent No.2 has already received payment of cheque in dispute and complaint under Section 138 of NI Act stands withdrawn, therefore, continuance of proceedings under Section 174A of IPC amounts to abuse of process of law as proceedings under Section 174A of IPC are consequential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. 1520 dated 26.09.2022, registered under Section 174-A IPC, at Police Station Shivaji Nagar, District Gurugram (Annexure P-2) and all other consequential proceedings arising therefrom are quashed *qua* the petitioner.

(JAGMOHAN BANSAL)
JUDGE

16.12.2022
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>