

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

260

CRM-M-535-2020

Decided on : April 20, 2023

MANISH LOHCHAB

..... Petitioner

Versus

DHARMENDER AND ANOTHER

..... Respondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Kanwar Abhay Singh, Advocate and
Mr. Govind Rana, Advocate
for the petitioner.

Mr. Vikrant Pamboo, DAG, Haryana.

None for the respondent no.1.

NAMIT KUMAR, J. (Oral)

This petition has been filed under Section 482 Cr.P.C. for quashing of orders dated 12.06.2019 (Annexure P-3) and 20.09.2019 (Annexure P-4) passed by the court of learned Judicial Magistrate Ist Class, Bhiwani in Criminal Complaint No.COMA/ 588/ 2016 titled as “*Dharmender v/s Manish Lohchab*” under Section 138 of Negotiable Instruments Act, 1881 as well as FIR No.426 dated 29.11.2019 under Section 174-A of IPC registered at Police Station Civil Lines Bhiwani, District Bhiwani.

Learned counsel for the petitioner *inter alia* submits that in the complaint under Section 138 of Negotiable Instruments Act, 1881 filed by Dharmender-complainant, the petitioner was summoned by the trial court vide order dated 01.10.2016 (Annexure P-2) for appearing on 19.11.2016, however, the petitioner was never served, therefore, he could not appear before the trial court on the said date of hearing, as he was not aware about proceedings initiated against him under Section 138 of NI Act, resultantly, non-bailable warrants were

issued against him and consequential proceedings under Section 82 of Cr.P.C. were initiated against him, which ultimately resulted into registration of FIR No.426 dated 29.11.2019 under Section 174-A of IPC registered at Police Station Civil Lines Bhiwani, District Bhiwani.

He further submits that the main dispute which was under Section 138 of the Negotiable Instruments Act, out of which, proceedings under Section 174-A of IPC have been emerged, had already been concluded vide order dated 19.08.2020 (Annexure P-7) passed by the learned Judicial Magistrate Ist Class, Bhiwani, as the matter had been compromised between the parties.

He submits that once the original proceedings have come to an end with the compromise between the parties, therefore, the present proceedings under Section 174-A of IPC arising out of the original proceedings should also come to an end. To support his contention he relies upon the judgment of this Court passed in '*Aditya Goyal vs. State of Haryana*' CRM-M-11269-2019 decided on 07.05.2019.

In the above said judgment, this Court has quashed the proceedings under Section 174-A of IPC where the main proceedings have already been concluded. The relevant portion from *Aditya Goyal's case (Supra)* is as under:-

“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.

Learned State counsel, on instructions from the Investigating Officer, has not disputed the factual position.

After hearing learned counsel for the parties, I find merit in the present petition.

Since the main complaint filed by the complainant under Section 138 of the N.I. Act itself stands dismissed as withdrawn by the trial Court keeping in view the fact that petitioner has cleared the entire dues and on the direction of this Court, the petitioner has already appeared before the Investigating Officer

and has also deposited the cost of `10,000/- with the Illaqa Magistrate, this Court is of the opinion that continuation of proceedings under Section 174-A IPC shall be an abuse of process of law.

Accordingly, in view of the facts and circumstance of the case and also in view of the judgments relied upon by the petitioner, this petition is allowed and order dated 03.12.2018 (Annexure P-1), passed by the trial Court in Criminal Complaint No. 1624/2017 dated 12.09.2017, filed under Section 138 of the N. I. Act, vide which, the petitioner has been declared a proclaimed person as well as other consequential proceedings arising therefrom including FIR No. 66 dated 01.02.2019, registered under Section 174-A IPC at Police Station Jagadhri City, District Yamuna Nagar (Annexure P-2) are hereby quashed.”

To the same effect, another judgment passed in '*Lakhwinder Singh versus State of Punjab*' CRM-M-37155-2021 decided on 16.11.2021 also supports the present case.

Learned State counsel has not disputed the fact that the matter has been compromised.

A perusal of order dated 19.08.2020 passed by the Judicial Magistrate Ist Class, Bhiwani makes it clear that the matter has been settled between the parties. Consequently, no fruitful purpose would be served in continuing the proceedings under Section 174-A of IPC.

Consequently, the present petition is allowed and the impugned orders dated 12.06.2019 (Annexure P-3) and 20.09.2019 (Annexure P-4) passed by the court of learned Judicial Magistrate Ist Class, Bhiwani in Criminal Complaint No.COMA/ 588/ 2016 titled as “*Dharmender v/s Manish Lohchab*” under Section 138 of Negotiable Instruments Act, 1881 and FIR No.426 dated 29.11.2019 under Section 174-A of IPC registered at Police Station Civil Lines Bhiwani, District Bhiwani and all subsequent proceedings arising therefrom, are hereby quashed, on the basis of compromise, *qua* the petitioner only.

April 20, 2023

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(NAMIT KUMAR)
JUDGE

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