

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-1670-2023 (O&M)

Date of decision: 12.01.2023

SUKHCHAIN SINGH

....Petitioner(s)

Versus

STATE OF PUNJAB AND ANR

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Rahul Arora, Advocate
for the petitioner.

AMAN CHAUDHARY. J.

Present petition has been filed under Section 482 CrPC for quashing of FIR No.9 dated 08.01.2020 under Section 174-A IPC registered at police station City Fazilka, District Fazilka registered in pursuant to wrong and illegal order dated 12.12.2019 passed in complaint bearing No. NACT No.724 of 02.08.2018 under Section 138 Negotiable Instruments Act, 1881 titled as 'Gurshaminder Singh Vs. Sukhchain Singh' which is now dismissed as withdrawn vide order dated 29.02.2020.

Learned counsel contends that the complaint under Section 138 of the Negotiable Instruments Act, was filed against the petitioner. It is his case that the petitioner was never served summons or warrants in the present case and only came to know about the order whereby he was proclaimed person vide order dated 12.12.2019, Annexure P-1. Consequent thereto FIR No.9 under Section 174-A dated 08.01.2020, Annexure P-2 was lodged. He submits that compromise has been arrived at and the complaint itself was dismissed as withdrawn vide order dated 29.02.2020, Annexure P-4. He submits that the absence of the petitioner was neither willful nor deliberate.

Learned counsel submits that in view of the fact that the main case having been itself withdrawn by the complainant vide order dated 29.02.2020, Annexure P-4, the continuation of the proceedings in the FIR initiated consequent to the order declaring the petitioner as proclaimed person without effecting service on him, shall be an abuse of process of law.

In support of his submissions, learned counsel places reliance upon the following judgments 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and circumstances wherein the complaint filed under Section 138 of the Negotiable Instruments Act, 1881, itself stands withdrawn, the proceedings initiated under Section 174-A IPC were quashed being an abuse of process of law:-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.***

This Court in the case of **Murli Jha** (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 connection 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-M32612 of 2020, Surender Singh v. State of Haryana and another decided 12.01.2021. ”

Furthermore, in CRM-M-43813-2018 titled as "**Baldev Chand Bansal vs. State of Haryana and another**", decided on 29.01.2019, this Court 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. 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 aforesaid facts and circumstances of the case that the complaint filed under Section 138 of the Negotiable Instruments Act, 1881, itself having been withdrawn, and in view of the judgment in cases of **Murli Jha** and **Baldev Chand Bansal** (supra), the present petition is allowed and FIR No.9 dated 08.01.2020 registered at Police Station City Fazilka, District Fazilka under Section 174-A IPC which has been registered consequent to order dated 12.12.2019 passed by learned Judicial Magistrate First Class, Fazilka is quashed, subject to payment of costs of Rs.10,000/- to be deposited with the District Bar Association, Fazilka.

(AMAN CHAUDHARY)
JUDGE

January 12, 2023

M.Kamra/S.Sharma(syr)

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