

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

126

CRM-M-4437-2023 (O&M)
Date of decision: 01.02.2023

SATYA BHAMA AND ANR.

....Petitioner(s)

Versus

SURYA FASHION AND ANR.

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. P.S. Jammu, Advocate
for the petitioners.

Mr. Naveen Sihag, Advocate
for respondent No.1.

AMAN CHAUDHARY. J.

Present petition has been filed under Section 482 CrPC for quashing of FIR No.1000 dated 09.11.2022 under Section 174-A IPC registered at police station Sirsa City, District Sirsa.

Learned counsel contends that the complaint under Section 138 NI Act was filed and summoning order was passed but the petitioners were never served with the same. Accordingly, they was declared proclaimed person vide order dated 18.02.2019 and FIR under Section 174-A was registered on 09.11.2022, Annexure P-1. The petitioners were granted regular bail, thereafter the entire payment was made by the petitioners to the complainant on the basis of the compromise having been arrived at. The complainant gave his statement before the trial Court on 03.01.2023, Annexure P-2 for withdrawing the complaint itself which was allowed on the same date vide Annexure P-3.

Learned counsel submits that in view of the fact that the main case

having been itself withdrawn by the complainant vide order dated 03.01.2023, Annexure P-3, the continuation of the proceedings in the FIR initiated consequent to the order declaring the petitioners as proclaimed persons without effecting service on them, shall be an abuse of process of law.

Heard.

In similar set of facts and circumstances, wherein the complaint filed under Section 138 of the Negotiable Instruments Act, 1881, itself stands withdrawn, this Court quashed the proceedings initiated under Section 174-A IPC being an abuse of process of law:-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.*

In the case of **Murli Jha** (supra), it has been 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a proclaimed person in proceedings initiated under section 138 of NI Act which stands settled, the complaint has been withdrawn and the proceedings against the accused petitioner were dropped.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 passed the following orders:-

"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 decisions in cases of **Murli Jha** and **Baldev Chand Bansal** (supra), FIR No.1000 dated 09.11.2022 under Section 174-A IPC registered at police station Sirsa City, District Sirsa, which has been registered consequent to order dated 18.02.2019, passed by learned Judicial Magistrate First Class, Sirsa is quashed.

(AMAN CHAUDHARY)
JUDGE

February 01, 2023

S.Sharma(syr)

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