

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

119

CRM-M-4836-2023 (O&M)
Date of decision: 09.02.2023

RAM MANOHAR GOYAL

....Petitioner(s)

Versus

STATE OF HARYANA AND ANOTHER

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Aman Priye Jain, Advocate
for the petitioner.

Mr. Manipal Singh Atwal, DAG Punjab.

AMAN CHAUDHARY. J.

Present petition has been filed under Section 482 CrPC for quashing of FIR No.1137 dated 01.08.2022 under Section 174-A IPC registered at police station Shivaji Nagar, District Gurugram.

Learned counsel contends that the complaint under Section 138 of NI Act was filed against him and without effecting service upon him as envisaged by the provision of Section 82 CrPC, he was declared proclaimed person vide order 26.07.2022 Annexure P-2. Consequently, FIR under Section 174-A was registered against the petitioner, on 01.08.2022 Annexure P-3. He submits that the petitioner became aware of the proceedings against him only after the lodging of the aforesaid FIR. He had no intention not to participate in proceedings initiated against him or pay the amount due towards the petitioner. Therefore, immediately he settled the matter with the complainant on 05.07.2022. Resultantly, statement by the complainant was made before the trial Court on 07.12.2022 for withdrawal

of the complaint which was permitted to be withdrawn on the same day, in view of compromise, Annexure P-4.

Learned counsel submits that in view of the fact that the main case having been itself withdrawn, the continuation of the proceedings in the FIR initiated consequent to the order declaring him as proclaimed person that too without effecting service upon him, 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and circumstances, wherein the complaint filed under Section 138 of the Negotiable Instruments Act, 1881, itself stands withdrawn, this Court quashed the proceedings initiated under Section 174-A IPC being an abuse of process of law:-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, Surrender 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."

Considering 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.1137 dated 01.08.2022 registered at Police Station Shivaji Nagar, District Gurugram under Section 174-A IPC consequent to order dated 09.06.2022 passed by learned Judicial Magistrate First Class, Gurugram is hereby quashed.

(AMAN CHAUDHARY)
JUDGE

February 09, 2023

M.Kamra

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