

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

(115)

**CRM-M-5358-2023
Date of Decision: 02.02.2023**

Rajbir

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Shalender Mohan, Advocate, for the petitioner.

HARKESH MANUJA, J.(ORAL)

By way of present petition filed under Section 482 of the Code of Criminal Procedure, 1973, prayer has been made for quashing the FIR No.987 dated 15.10.2022 under Section 174-A IPC registered at Police Station HTM Hisar, Haryana (Annexure P-1).

Brief facts of the case are that on account of dishonor of a cheque, the petitioner was summoned vide order dated 04.04.2018 in a complaint filed against him under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as “the Act”). Due to non-appearance of the petitioner on the date of hearing before the Court, he was declared as proclaimed person by the trial Court vide order dated 26.09.2022. Thereafter, parties entered into a settlement, thereby resulting into withdrawal of the aforesaid complaint vide order dated 02.12.2022. However, in the meanwhile in pursuance of order dated 27.09.2022 passed by the trial Court, an FIR dated 15.10.2022 came to be registered against him under Section 174-A of the IPC at Police Station HTM Hisar wherein, the petitioner got the concession of anticipatory bail from the Court of Additional Sessions Judge, Hisar vide order dated 13.12.2022.

Impugning the FIR dated 15.10.2022, registered against the petitioner under Section 174-A IPC at Police Station HTM Hisar, learned counsel for the petitioner submits that in fact the petitioner was never served in the proceedings under Section 138 of the Act and thus, could not appear in those proceedings. He also submits that once, the proceedings under Section 138 of the Act, have already been withdrawn on account of compromise having been arrived between the parties, no useful purpose is going to be served for continuing with the proceedings arising out of the FIR under Section 174-A IPC. In this regard, learned counsel for the petitioner relies upon the decision passed by this Court in cases of **Harinder Pal Singh Vs. State of Haryana** passed in CRM-M-36901 of 2022 dated 11.11.2022 and **Raj Kumar Vs. M/s Chand Enterprises**, passed in CRM-M-15596-2022 dated 15.12.2022.

Notice of motion.

Mr. Sumit Jain, Addl. A. G. Haryana, accepts notice on behalf of respondent-State.

Learned State counsel submits that despite service, the petitioner did not appear before the trial Court and thus, he tried to evade the judicial proceedings. He further submits that mere withdrawal of the complainant under Section 138 of the Act, would not make out the proceedings arising out of the FIR under Section 174-A of the IPC to be meaningless, as the offence already stood concluded prior to withdrawal of the complaint under Section 138 of the Act.

I have heard learned counsel for the parties and gone through the paper book and the judgments cited by the petitioner. I find substance in the submissions made on behalf of the petitioners.

Once the matter between the parties arising out of the complaint under Section 138 of the Act already stand concluded with the withdrawal of the complaint vide order dated 02.12.2022 (Annexure P-3) and the petitioner has presented himself to the jurisdiction of the Court by moving an application for grant of anticipatory bail which was granted in his favour vide order dated 31.12.2022, no useful purpose is going to be served for continuing with the proceedings arising out of the FIR under Section 174-A IPC. Even my aforesaid view is derived from decision rendered by this Court in case of **Javed Khan Vs. State of Haryana and another passed in CRM-M-42477 of 2022**. Relevant portion of the aforementioned is reproduced hereinbelow:

“Once, the complaint under Section 138 of the Act already stands withdrawn by the complainant and entire amount has been paid to him, no useful purpose is going to be served by carrying on with the proceedings arising out of the present FIR. Even otherwise, the case of the petitioner is fully covered with the judgments passed by this Court in Satish Kumar's case (supra) and Ram Kumar Rana's case (supra).”

Resultantly, in view of the discussion made hereinabove, present petition is allowed and the FIR No.987 dated 15.10.2022 under Section 174-A IPC registered at Police Station HTM Hisar, Haryana (Annexure P-1) along with all consequential proceedings arising therefrom are hereby quashed.

However, the aforesaid order shall be subject to payment of costs of Rs.20,000/- by the petitioner within a period of two weeks from today in the following account:-

Account Name-	Punjab and Haryana High Court Association Lawyer's Family Welfare Fund.
Account No.	41564846387.
Bank Name.	SBI High Court Branch.

However, nothing expressed hereinabove shall be construed as an expression on the merits of the case.

(HARKESH MANUJA)
JUDGE

02.02.2023
anil

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