

**205 THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-14073-2022****Date of Decision: 24.05.2023****Vikas Sharma****...Petitioner****V/s****State of Haryana and another****...Respondents****CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA****Present:** Mr. Gursheer Singh Dhillon, Advocate
for the petitioner.

Mr. Karan Garg, AAG, Haryana.

Mr. Paramjeet Phor, Advocate
for the respondent No.2/complainant.**********DEEPAK MANCHANDA J.**

By way of present petition, the petitioner is seeking quashing of FIR No.718 dated 07.10.2021 registered under Section 174-A of IPC at Police Station City Shivaji Nagar, District Gurugram (Annexure P-1) and all other subsequent proceedings arising therefrom on the basis of memorandum of understanding dated 08.01.2019 (Annexure P-2).

Learned counsel for the petitioner contends that the impugned FIR was registered on the basis of order dated 12.06.2017 passed by the Court of JMIC, Gurugram in case Shri Shyam Bricks Vs. M/s Supreme Infrastructure India Ltd. & Ors., vide which the petitioner was declared as proclaimed person for not appearing repeatedly before the Court concerned. Learned counsel further contends that the aforementioned case was a petition under Section 138 of Negotiable Instruments Act and the petitioner entered into a compromise/agreement with respondent No.2 to settle all outstanding dues i.e., Rs.41,51,000/- vide a memorandum of understanding (Annexure P-2) dated 08.01.2019, out of which the petitioner has already paid Rs.34,60,800/- and now

the only amount due is Rs.6,90,200/-. It is further argued that the petitioner had settled the matter in January 2019 itself and the earlier engaged counsel did not inform the applicant-accused that the Court of JMIC, Gurugram wherein Section 138 of Negotiable Instruments Act case was pending, is not apprised about the settlement between the parties and the petitioner was never informed about the proceedings of the case through counsel and the petitioner came to know about the said FIR in the month of November, 2021 as the same was told by respondent No.2 to the accountant of petitioner's company. Learned counsel further submits that remaining amount of Rs.6,90,300/- is to be paid vide two demand drafts bearing No.57145 (Annexure P-3) dated 22.02.2022 for a sum of Rs.3,00,000/- and another demand draft bearing No.57144 (Annexure P-4) dated 22.02.2022 for a sum of Rs.3,90,300/- both drawn on Axis Bank, Powai, Mumbai, being the disputed amount, had already been prepared to be handed over to the complainant as full and final settlement.

Learned counsel for the respondent No.2/complainant has admitted the fact of compromise/agreement arrived at between the parties.

In view of the facts and circumstances as pleaded by the parties, it is apparent that the present FIR came into existence owing to the petitioner having been declared proclaimed person in the proceedings under Section 138 of the NI Act and the said matter already stands compromised in terms of the statement made by learned counsel for the respondent No.2/complainant. Thus the question would arise as to whether the proceedings under Section 174-A IPC should be allowed to continue after compounding of offence under which accused was declared proclaimed offender or not? The said question is no more *res-integra* and already stands settled by the Co-ordinate Bench of this Court in CRM-M-43813-2018 titled as ***“Baldev Chand Bansal Vs. State of Haryana and another”***

vide order dated 29.01.2019, which 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.”

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*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 174A of IPC shall be nothing but an abuse of the process of law.***

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In view of the same, I find merit in the present petition and accordingly, present petition is allowed and the impugned order dated 24.10.2016 passed by Judicial Magistrate, 1st Class, Panchkula as well as FIR No.64 dated 15.02.2017 registered under Section 174-A of the Indian Penal Code at Police Station Sector-5, Panchkula and all other subsequent proceedings arising thereof, are hereby quashed.”

Same is the view of another Co-ordinate Bench in the “**Ashok Madaan vs. State of Haryana and another” reported as 2020 (4) RCR (Criminal) 87,** wherein it has been held that:

“No doubt, the learned counsel for the respondent has vehemently argued that the offence under Section 174-A I.P.C. Is independent of the main case, therefore, merely because the main case has been dismissed for want of prosecution, the present petition cannot be allowed, however, keeping in view the fact that the present FIR was registered only on account of absence from the proceedings in the main case which had been subsequently regularised by the court while granting bail to the petitioner, the default stood condoned. In such circumstances, continuation of proceedings under Section 174A I.P.C. shall be abuse of the process of court.

7. *Accordingly, the petition is allowed. FIR No. 446 dated*

21.08.2017, registered under Section 174A I.P.C. At Police Station Kotwali, District Faridabad, as well as consequential proceedings shall stand quashed.”

Keeping in view the facts and circumstances of the case and in view of the principles settled by various Courts, the present petition is allowed and FIR No.718 dated 07.10.2021 registered under Section 174-A of IPC at Police Station City Shivaji Nagar, District Gurugram (Annexure P-1) and all other subsequent proceedings arising therefrom on the basis of memorandum of understanding is hereby quashed qua the petitioner.

(DEEPAK MANCHANDA)
JUDGE

24.05.2023
Sapna

Whether reasoning given	Yes
Whether reportable	Yes/No