

CRM-M-5392-2020 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-5392-2020 (O & M)  
Date of decision:19.04.2023

Rajender Singh ..... Petitioner  
V/s

Vidya Devi ...Respondent

**CORAM: HON’BLE MR. JUSTICE JASJIT SINGH BEDI**

Present: Mr. Anand Kaushal, Advocate,  
for Mr. D.S. Gandhi, Advocate,  
for the petitioner.  
  
Mr. Krishan Singh, Advocate  
for the respondent.  
  
Mr. Neeraj Poswal, AAG, Haryana.

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**JASJIT SINGH BEDI, J. (Oral)**

The prayer in the present petition under Section 482 Cr.P.C. is for the quashing of the order dated 06.09.2017 (AnnexureP-2) passed by the Civil Judge (Jr. Divn.)/Judicial Magistrate Ist Class, Rewari in complaint No.COMA/3077/2013 dated 17.12.2013 under Section 138 of the Negotiable Instruments Act vide which the petitioner was declared a proclaimed person.

2. The learned counsel for the petitioner contends that the petitioner had undertaken to make the entire payment of the cheque amount

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to the respondent, consequent to which, the impugned order had been stayed vide order dated 06.02.2020. Thereafter, the matter had been referred to the Mediation and Conciliation Centre of this Court where a settlement has been arrived at between the parties. As per the compromise, a sum of Rs.1,25,000/- stands paid to the complainant by way of full and final settlement. It is, thus, his contention that once the entire amount stands paid, no useful purpose would be served by allowing the proceedings pursuant to the order dated 06.09.2017 (Annexure P-2) to continue.

3. The learned counsel for the complainant admits the fact that a compromise has been arrived at in terms of which he has received the entire amount. He, therefore, has no objection if the impugned order (Annexure P-2) is quashed.

4. The learned counsel for the State, on the other hand, contends that the impugned order where the petitioner was declared a proclaimed person was rightly passed. Merely because a settlement has been arrived at was no ground to quash the aforesaid order.

5. I have heard the learned counsel for the parties.

6. A co-ordinate Bench of this Court in **CRM-M-43813-2018** titled as “**Baldev Chand Bansal vs. State of Haryana and another**”, decided on 29.01.2019 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*

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*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 (CrI.) 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.*

xxx xxx xxx

*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.”*

7. A perusal of the above judgment would show that in a similar case where the FIR had been registered under Section 174-A IPC in view of the order passed in proceedings under Section 138 of the Act, while

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declaring the petitioner therein as a proclaimed offender, a co-ordinate Bench after relying upon various judgments observed that once the main petition under Section 138 of the Act stands withdrawn in view of an amicable settlement between the parties, the continuation of proceedings under Section 174-A IPC is nothing but an abuse of the process of law. The said aspect was one of the main considerations for allowing the petition and setting aside the order declaring the petitioner therein as a proclaimed person as well as for quashing of the FIR under Section 174-A IPC.

8. Another co-ordinate Bench of this Court in a case titled as **“Ashok Madan vs. State of Haryana and another”** reported as **2020(4) RCR (Criminal) 87** has also held as under:-

*“No doubt, the learned counsel for the respondent has vehemently argued that the offence under Section 174A 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.”*

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9. A perusal of the relevant extract of the above judgment would show that where the main case was dismissed for want of prosecution, it was observed that the continuation of proceedings under Section 174-A IPC shall be an abuse of the process of court. A similar view has been expressed by this Court in “Anil Kumar Versus Jitender Kumar and another, CRM-M-5878-2022 decided on 06.04.2022”, “Anil Kumar Versus Jitender Kumar and another, CRM-M-5755-2022 decided on 06.04.2022” and “Varinder Kumar @ Virender Kumar Versus State of Haryana and another, CRM-M-42551-2021 decided on 19.04.2022”.

10. In the present case the parties have arrived at a settlement and the entire payment has been made by the petitioner to the complainant in terms of the full and final settlement of the dispute between them.

11. In view of the above, the present petition is allowed and the impugned order dated 06.09.2017 (Annexure P-2) passed by the Civil Judge (Jr. Divn.)/Judicial Magistrate Ist Class, Rewari in complaint No.COMA/3077/2013 dated 17.12.2013 under Section 138 of the Negotiable Instruments Act and all other consequential proceedings arising therefrom are hereby quashed qua the petitioner.

( JASJIT SINGH BEDI)  
JUDGE

April 19, 2023  
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No