

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-8271-2023

Decided on : May 05, 2023

REENU TIWARI

..... Petitioner

Versus

STATE OF HARYANA AND ANOTHER

..... Respondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Naresh Kumar Ganga, Advocate
for the petitioner.

Mr. Vikrant Pamboo, Sr. DAG, Haryana.

Mr. Ajit Kumar Sharma, Advocate for respondent no.2.

NAMIT KUMAR, J. (Oral)

This petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.19 dated 06.01.2023 under Section 174-A of IPC registered at Police Station Civil Line Sirsa, District Sirsa (Annexure P-4).

Learned counsel for the petitioner *inter alia* submits that in the complaint under Section 138 of Negotiable Instruments Act, 1881 filed by Priyanka-complainant, the petitioner was summoned by the trial court to face the trial, however, in the said complaint proper address of the petitioner was not given due to which service upon the petitioner could not be effected upon and besides said fact, the petitioner had remained under treatment from Dr. Ram Manohar Lohia Hospital at Delhi, where she delivered a child after major surgery on 05.08.2022 and during that period proclamation proceedings were initiated against her, however, she was never served with any notice or warrants, therefore, she could not appear before the trial court, as she was not aware about any such

proceedings, resultantly, non-bailable warrants were issued against her and consequential proceedings under Section 82 of Cr.P.C. were initiated against her, which ultimately resulted into registration of FIR No.19 dated 06.01.2023 (Annexure P-4) and initiation of proceedings under Section 174-A IPC.

He further submits that the petitioner has already surrendered before the trial Court in the Complaint Case No.NACT/64/2021 under Section 138 of Negotiable Instruments Act, 1881, after being enlarged on bail vide order dated 22.12.2022 passed by this Court in CRM-M-60231-2022. He further submits that the main dispute which was under Section 138 of the Negotiable Instruments Act, out of which, proceedings under Section 174-A of IPC have been emerged, had already been settled between the parties as the entire cheque amount alongwith compensation has been paid to the complainant-respondent no.2 and the *factum* of said payment has already been recorded in the order dated 23.01.2023 (Annexure P-5) passed by the learned Judicial Magistrate Ist Class, Sirsa, whereby the complaint under Section 138 of Negotiable Instruments Act, 1881 has been dismissed as withdrawn.

He also submits that once the original proceedings have come to an end with the compromise between the parties, therefore, the present proceedings under Section 174-A of IPC arising out of the original proceedings should also come to an end. To support his contention he relies upon the judgment of this Court passed in '*Aditya Goyal vs. State of Haryana*' CRM-M-11269-2019 decided on 07.05.2019.

In the above said judgment, this Court has quashed the proceedings under Section 174-A of IPC where the main proceedings have already been concluded. The relevant portion from *Aditya Goyal's case (Supra)* is as under:-

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

Learned State counsel, on instructions from the Investigating Officer, has not disputed the factual position.

After hearing learned counsel for the parties, I find merit in the present petition.

Since the main complaint filed by the complainant under Section 138 of the N.I. Act itself stands dismissed as withdrawn by the trial Court keeping in view the fact that petitioner has cleared the entire dues and on the direction of this Court, the petitioner has already appeared before the Investigating Officer and has also deposited the cost of `10,000/- with the Illaqa Magistrate, this Court is of the opinion that continuation of proceedings under Section 174-A IPC shall be an abuse of process of law.

Accordingly, in view of the facts and circumstance of the case and also in view of the judgments relied upon by the petitioner, this petition is allowed and order dated 03.12.2018 (Annexure P-1), passed by the trial Court in Criminal Complaint No. 1624/2017 dated 12.09.2017, filed under Section 138 of the N. I. Act, vide which, the petitioner has been declared a proclaimed person as well as other consequential proceedings arising therefrom including FIR No. 66 dated 01.02.2019, registered under Section 174-A IPC at Police Station Jagadhri City, District Yamuna Nagar (Annexure P-2) are hereby quashed.”

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To the same effect, another judgment passed in '**Lakhwinder Singh versus State of Punjab'** CRM-M-37155-2021 decided on 16.11.2021 also supports the present case.

Mr. Ajit Kumar Sharma, Advocate puts in appearance on behalf of complainant and has filed Power of Attorney, which is taken on record, and he has admitted the *factum* of payment of the cheque amount alongwith compensation which has already been paid by the petitioner to the complainant - respondent no.2.

Learned State counsel, while placing on record the status report dated 04.05.2023, has not disputed the fact that the matter has been compromised. Copy supplied.

A perusal of order dated 23.01.2023 passed by the Judicial Magistrate Ist Class, Sirsa makes it clear that the matter has been settled between the parties as payment of the cheque amount alongwith compensation has already been paid by the petitioner to the complainant - respondent no.2. Consequently, no fruitful purpose would be served in continuing the proceedings under Section 174-A of IPC.

Consequently, the present petition is allowed and the impugned FIR No.19 dated 06.01.2023 under Section 174-A of IPC registered at Police Station Civil Line Sirsa, District Sirsa and all subsequent proceedings arising therefrom, are hereby quashed, on the basis of compromise, *qua* the petitioner only.

May 05, 2023
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(NAMIT KUMAR)
JUDGE

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