

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

CRM-M-16345-2023
Date of decision: 03.04.2023

SANJEEV KUMAR

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Veeraj Sharma, Advocate for the petitioner.

VIKRAM AGGARWAL, J (ORAL)

Prayer in the present petition is for quashing of FIR No.0093 dated 18.02.2023, registered under Section 174-A IPC, at Police Station Mahesh Nagar, District Ambala arising out of complaint bearing COMA-1863/2019 dated 19.07.2019 titled as Sunil Kumar Vs. Sanjeev Kumar, filed under Section 138/142 of the Negotiable Instruments Act, 1881(in short 'the Act') and all subsequent proceedings arising therefrom.

Initially, the petitioner did not appear before the trial Court as a result of which he was declared a proclaimed person. Subsequently the present FIR was registered against him.

At the outset, learned counsel for the petitioner contends that the matter has been compromised between the parties and the complaint under Section 138 of the Act has been withdrawn vide order dated 10.03.2023 (Annexure P-4). It has been submitted that under the circumstances, the present FIR deserves to be quashed.

Notice of motion.

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On the asking of the Court, Mr. Surender Singh, Asstt. Advocate General, Haryana accepts notice on behalf of the respondent-State.

A complaint under Section 138 of the Act was filed by Sunil Kumar against Sanjeev Kumar. It was alleged that cheque amounting to Rs.50,000/- issued by the present petitioner in discharge of his liability had been dishonoured.

Admittedly, the petitioner did not initially appear before the trial Court as a result of which he was declared a proclaimed person and the present FIR under Section 174-A IPC was registered. A perusal of the record shows that the matter under Section 138 of the Act has been settled and the complaint was dismissed as withdrawn vide order dated 10.03.2023 (Annexure P-4).

The question would be as to whether on account of the acquittal of the petitioner in the complaint under Section 138 of the Act, the present FIR deserves to be quashed.

Going by the facts of the case, it is clear that even with the continuation of the FIR, no useful purpose will be served and the interest of justice demands that the same should be quashed. A Coordinate Bench of this Court also ceased of the same question relying upon the judgment in the case of **Ashok Madan vs. State of Haryana and another 2020 (4) RCR (Criminal) 87** wherein it had been held that since the FIR under Section 174-A IPC had been registered only on account of absence from the proceedings in the main case which had been subsequently regularized by

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the Court while granting bail to the petitioner, the default stood condoned and, therefore, the FIR deserved to be quashed. A Coordinate Bench of this Court also took the same view in the case of **Rahul Dureja and another vs. State of Punjab 2022 (1) R.C.R. (Criminal) 248** and held as under:-

“A perusal of the above judgment would show that where FIR has been registered under Section 174-A of the IPC in view of the order passed in the proceedings under Section 138 of the Act of 1881, while declaring the petitioners as proclaimed persons in the said proceedings, a coordinate Bench after relying upon various judgments, had observed that once the accused persons had appeared in the proceedings under Section 138 of the Act of 1881 and had been granted the concession of bail, then the effect of order declaring the accused person as proclaimed person would dissipate and the ground for registration of the FIR under Section 174-A of the IPC would no longer exist and thus, any proceeding under Section 174-A of the IPC would be an abuse of the process of the Court.”

A similar view has been taken by the Coordinate Benches of this Court in **Vikas Sharma vs. Gurpreet Singh Kohli and another CRM-M-32465-2017, decided on 13.09.2017** and **Deepak versus State of Haryana and another CRM-M-14623-2021, decided on 17.02.2022**

This Court agrees with the view taken by the Coordinate Benches of this Court in the aforesaid judgments.

Learned counsel representing the State has not been able to dispute the aforesaid facts and the position of law as laid down in the aforesaid judgment.

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In view of the above, the present petition is allowed and FIR No.0093 dated 18.02.2023, registered under Section 174-A IPC, at Police Station Mahesh Nagar, District Ambala along with all consequential proceedings arising therefrom are hereby quashed qua the petitioner.

03.04.2023
himanshu

(VIKRAM AGGARWAL)
JUDGE

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

2023:PHHC:047678