

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-17490-2022 (O&M)

Date of decision: 19.01.2023

PARGAT SINGH

....Petitioner(s)

Versus

STATE OF HARYANA

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. J.S. Kang, Advocate
for the petitioner.

Ms. Aditi Girdhar, AAG Haryana.

AMAN CHAUDHARY. J.

Present petition has been filed under Section 482 CrPC for quashing of FIR No.765 dated 03.12.2021 under Section 174-A IPC registered at police station Karnal Civil Lines, District Karnal.

Learned counsel contends that the Criminal Complaint under Section 138 of Negotiable Instruments Act was filed against the petitioner, wherein a compromise has been arrived at between the petitioner and the complainant, pursuant where to the complaint was withdrawn on 20.12.2021, however, in the meantime, the petitioner was declared proclaimed person by the trial Court vide order dated 18.11.2021 without effecting proper service on the petitioner and consequently, an FIR was registered against the petitioner under Section 174-A of IPC on 03.12.2021. The copy of the payment details and order of withdrawal of the petition are appended as Annexures P-2 and P-3. It is his submission that in view of the compromise having been arrived at, the petitioner was under the impression that there was no need to appear before the trial Court as the bank had assured that the complaint would be withdrawn. Therefore, the absence of the petitioner was neither intentional

nor deliberate, but was on account of the aforesaid mis-communication or misunderstanding. Thereafter, he filed an application for grant of Anticipatory Bail before this Court which was granted vide order dated 30.03.2022, Annexure P-5.

Learned counsel submits that in view of the fact that the main case having been itself withdrawn by the complainant vide order dated 20.12.2021, Annexure P-3, the continuation of the proceedings in the FIR initiated consequent to the order declaring the petitioner as proclaimed person without effecting service on him, shall be an abuse of process of law.

Heard.

In similar set of facts and circumstances, wherein the complaint filed under Section 138 of the Negotiable Instruments Act, 1881, itself stands withdrawn, this Court quashed the proceedings initiated under Section 174-A IPC being an abuse of process of law:-

1. ***“Murli Jha vs State of Haryana”, 2021(3) R.C.R.(Criminal) 563.***
2. ***“Microqual Techno Limited and others vs State of Haryana”, 2015 (3) R.C.R.(Criminal) 790.***
3. ***“Ram Kumar Rana vs State of Haryana and another”, 2022(1) R.C.R. (Criminal) 294.***
4. ***“Ashok Madan vs State of Haryana and another”, 2020(4) R.C.R. (Criminal) 87.***

In the case of **Murli Jha** (supra), it has been held as under:-

“8. I have considered the rival submissions of the parties. The FIR is an outcome of the order declaring the petitioner as a proclaimed person in proceedings initiated under section 138 of NI Act which stands settled, the complaint has been withdrawn and the proceedings against the accused petitioner were dropped. In such circumstances, the continuation of prosecution under Section 174-A IPC in pursuance to the orders passed by the trial Court cannot be permitted to continue. Reference in this connection may be made to the judgments of this Court in Microqual Techno R.C.R. (Criminal) 790; Rajneesh Khanna v. State of Haryana and another, 2017 (3) L.A.R. 555 and CRM-M32612 of 2020, Surender Singh v. State of Haryana and

another decided 12.01.2021. ”

Furthermore, in CRM-M-43813-2018 titled as "**Baldev Chand Bansal vs. State of Haryana and another**", decided on 29.01.2019, this Court passed the following orders:-

"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. 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."

In view of the aforesaid facts and circumstances of the case that the complaint filed under Section 138 of the Negotiable Instruments Act, 1881, itself having been withdrawn, and in view of the decisions in cases of **Murli Jha** and **Baldev Chand Bansal** (supra), FIR No.765 dated 03.12.2021 registered at Police Station Karnal Civil Lines, District Karnal under Section 174-A IPC which has been registered consequent to order dated 18.11.2021 passed by learned Judicial Magistrate First Class, Karnal is quashed.

(AMAN CHAUDHARY)
JUDGE

January 19, 2023

M.Kamra/S. Sharma

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>