

235 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-20610-2022(O&M)
Date of Decision: 22.05.2023

Om Parkash

..... Petitioner

versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. K.D.Sehra, Advocate for the petitioner.

Mr. Surender Singh, Assistant Advocate General, Haryana.

HARPREET SINGH BRAR, J. (Oral)

1. Prayer in the present petition filed under Section 482 Cr.P.C. is for quashing of order dated 20.12.2021 whereby the petitioner herein was declared a proclaimed offender in a criminal complaint No. NIA/63 of 2018, under Sections 138/142 of the Negotiable Instruments Act and Sections 420 and 406 of the IPC titled as “Bheem Singh vs. Om Parkash” with regard to dishonour of cheque and also sought quashing of FIR No. 501, dated 29.12.2021, under Section 174-A IPC, registered at Police City Sohna, Gurgaon.

2. In this case on 08.03.2022 (Annexure P-5) respondent No.2-Bheem Singh made a statement that he has compromised with the accused (petitioner) as he has received the amount of the dishonoured cheque. He further stated that he did not want to pursue the complaint further and the

same might be filed. As such, quashing of proceedings under Section 174-A of IPC has been sought by way of the present petition.

3. The question which arises for consideration of this Court is whether on account of withdrawal of the complaint under Section 138 of the Negotiable Instruments Act on the basis of compromise, the present FIR deserves to be quashed?

4. The stand of learned counsel representing the petitioner is that the petitioner has been declared a proclaimed offender in contravention of the prescribed procedure under Section 82 of the Code of Criminal Procedure. The petitioner was never served before the proclamation was issued under Section 82 Cr.P.C. The petitioner has duly paid the amount involved in the cheque in question and both the parties have settled the matter amicably which has resulted in withdrawal of the complaint under Section 138 of the Negotiable Instruments Act. In the factual backdrop of this case, undisputedly, once the substantive offence already stands settled between the petitioner and respondent No.2-Bheem Singh, the continuation of prosecution under Section 174-A of the IPC would be an abuse of the process of law.

5. Reliance in this regard has been placed upon the various pronouncements on the issue involved in the present case. In **CRM-M-43813-2018, Baldev Chand Bansal vs. State of Haryana and another**, decided on 29.01.2019, **Vikas Sharma vs. Gurpreet Singh Kohli and another**, 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 identical circumstances, the Coordinate Benches of this Court

has held that since the main petition filed under Section 138 of the Negotiable Instruments 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.

6. A Coordinate Bench of this Court in **Vikas Gupta vs. State of Haryana and others**, while quashing the FIR under Section 174-A of the IPC in **CRM-M-19636-2018** decided on 01.08.2018 has observed the following:-

“ The ultimate aim, objective and goal of a legal system is to reconcile the social conflicts. Law is required only to ensure that people do not have to fight with each other just to protect their right to property, right to life and liberty and other rights secured to them by the legal system. The civil disputes are the conflicts between two parties, having lesser overtones for the social order, social harmony or the society as such. Hence absolute freedom is given to the parties to settle their disputes by compromises, of course, coming with certain legal consequences as well. However, the criminal disputes do not necessarily restrict themselves to only two parties to the dispute in terms of their scope, consequences and effect. The criminal acts tend to cast their effect and consequences even upon the society at large. Therefore, the law prescribes punishment, severe punishments and the extreme punishments, including death penalty for criminal acts.

7. A Coordinate Bench of this Court also took the same view in the case of **Brahul 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.”

8. A Coordinate Bench of this Court also dealt with same question in **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 of the accused from the proceedings in the main case which had been subsequently regularized by the Court while granting bail to the petitioner, the default stood condoned and, therefore, the FIR deserved to be quashed.

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

10. This Court, while examining the facts and circumstances of the present case, is of the considered opinion that the view taken by the Coordinate Benches of this Court in the aforementioned decisions is correct. Once the substantive offence has been settled through compromise between the petitioner and respondent No.2, the continuation of the proceedings under the impugned FIR would tantamount to an abuse of the process of law.

11. Accordingly the present petition is allowed and FIR No. 501, dated 29.12.2021, under Section 174-A IPC, registered at Police City Sohna, Gurgaon along with all consequential proceedings arising therefrom, is hereby quashed qua the petitioner.

(HARPREET SINGH BRAR)
JUDGE

22.05.2023

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Whether Reasoned/Speaking : Yes/No

Whether Reportable : Yes/No