

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-22082-2023(O&M)

Date of Decision:-01.06.2023

Ramit Gupta.

.....Petitioner.

Vs.

State of Haryana & Anr.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Rajender Kumar, Advocate for the applicant/Petitioner.

Mr. Kanwar Sanjiv Kumar, AAG Haryana.

JASJIT SINGH BEDI, J.(ORAL)

CRM-23023-2023

The prayer in the application under Section 482 Cr.PC is preponment of the date of hearing from 26.07.2023 to an early date.

Heard.

For the reasons stated in the application, the same is allowed and the date of hearing is advanced from 26.07.2023 to today and is taken up for hearing itself.

CRM-23026-2023

Allowed as prayed for.

Affidavit of the petitioner dated 11.05.2023 (Annexure P-16) is taken on record and registry to place the same at appropriate place and paginate the paper book accordingly.

CRM-M-22082-2023

This is a petition under Section 482 of Cr.P.C. for quashing of impugned order dated 14.12.2022 (Annexure P-13) passed in Complaint bearing no.NACT 53 of 2021 titled as Gurjant Singh Vs. Ramit Gupta passed by JMIC, Pehowa whereby the petitioner was declared a Proclaimed Person as well as subsequent proceedings arising out of the said order as the

parties have already entered into settlement and the above mentioned complaint stands withdrawn vide statement dated 17.04.2023 (Annexure P-15).

2. The brief facts of the case are that in discharge of his legal liability, the petitioner/accused issued a cheque bearing no.472934 dated 20.01.2021 for an amount of Rs.30,000/- as part payment and promised to return the balance amount in a short period to the complainant. The said cheque came to be dishonoured. Pursuant thereto, as no payment was made in lieu of the dishonoured cheque, a complaint under Section 138 of Negotiable Instruments Act came to be instituted against the petitioner/accused and he was summoned to face trial. Subsequently, he was declared a proclaimed person vide order dated 14.12.2022 (Annexure P-13).

3. Thereafter, a compromise was effected between the parties and the complaint was ordered to be dismissed as withdrawn in terms of the order dated 17.04.2023 (Annexure P-15). In view of the dismissal of the complaint under Section 138 of Negotiable Instruments Act on the basis of the compromise, the present petition for quashing of the aforesaid order dated 14.12.2022 (Annexure P-13) passed by the Judicial Magistrate, 1st Class Pehowa and the subsequent proceedings arising out of the said order.

4. The learned counsel for the petitioner/accused submits that he had wrongly been declared a proclaimed person and on learning about the same, the petitioner compromised the matter with the complainant/respondent No.2. Thereafter, on 17.04.2023, the respondent No.2-complainant in the Trial Court got recorded his statement that complainant did not want to proceed further with the complaint and wanted to withdraw the same. Based on the said statement, the complaint was ordered to be dismissed as withdrawn on 17.04.2023 (Annexure P-15).

5. The learned State counsel has opposed the present petition and has submitted that the petitioner has rightly been declared a proclaimed person.

6. This Court has heard the learned counsel for the parties and has perused the paper-book.

7. From the above-said facts and circumstances, it is apparent that the petitioner was declared proclaimed person in the proceedings emanating out of the impugned complaint which itself has been withdrawn.

8. 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 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 (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 174A of IPC shall be nothing but an abuse of the process of law.*

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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.”

9. A perusal of the above judgment would show that in a similar case where the subsequent proceedings have been initiated after declaring the petitioner as proclaimed offender in view of the order passed in proceedings under Section 138 of the Act, a co-ordinate Bench after relying upon various judgments observed that once the main petition under Section 138 of the Act stood withdrawn in view of an amicable settlement between

the parties, the continuation of proceedings under Section 174-A IPC was nothing but an abuse of the process of the 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 the subsequent proceedings.

10. 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.”

11. 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 would be an abuse of the process of the 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”.

12. In the present case the proceedings under the Negotiable Instruments Act have culminated in a settlement with the withdrawal of the complaint.

13. In view of the above, the present petition is allowed and order

dated 14.12.2022 (Annexure P-15) passed in Complaint bearing no.NACT 53 of 2021 titled as Gurjant Singh Vs. Ramit Gupta passed by JMIC, Pehowa whereby the petitioner was declared a Proclaimed Person as well as subsequent proceedings arising out of the said order stands quashed.

(JASJIT SINGH BEDI)
JUDGE

June 01, 2023
Vinay

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