

CRM-M-26659-2023

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

CRM-M-26659-2023

Date of Decision: May 25, 2023

RAJESH KAUSHAL AND ANOTHER

..... Petitioners

Versus

STATE OF HARYANA AND ANOTHER

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Kunal Dawar, Advocate,
for the petitioners.

HARKESH MANUJA, J. (ORAL)

1. Prayer in the present petition filed under Section 482 Cr.P.C. is for quashing of FIR No.173, dated 15.03.2023, under Section 174-A IPC, registered at Police Station Faridabad Kotwali, Faridabad.
2. Facts leading to the present case are that the petitioners were arrayed as accused in a complaint titled as **"M/s Manish Enterprises Vs. M/s Roshan Hitech Project Pvt. Ltd."**, filed under Sections 138, 141/142 of the Negotiable Instruments Act, 1881 (for short' "1881 Act") wherein, they were summoned. Since, the petitioners never duly served, therefore, they could not appear before the trial court, resulting into their declaration as proclaimed persons vide order dated 09.03.2023 passed by the court of learned Judicial Magistrate Ist Class, Faridabad. Accordingly, FIR in question, was registered against the petitioners under Section 174-A IPC on 15.03.2023. Later, a

settlement came to be arrived at between the parties as the petitioners discharged their liability by paying the entire cheque amount in favour of complainant and in pursuance thereof, the complaint was dismissed as withdrawn vide order dated 27.03.2023 passed by the court of learned JMIC, Faridabad.

3. At the outset, learned counsel for petitioners submits that the presence of respondent No.2 may not be necessary for the adjudication of the petition in hand as the present FIR has been registered under Section 174-A of IPC whereas the complaint filed at the instance of complainant, invoking Section 138 of 1881 Act, already stands withdrawn by them vide order dated 27.03.2023.

4. Finding merits in the submission made on behalf of petitioners, name of respondent No.2 is ordered to be deleted from the arrays of parties.

5. Learned counsel for the petitioners submits that once the main proceedings under Section 138 of the Act, 1881 have already come to an end, no useful purpose is going to be served by continuing with the proceedings arising out of the FIR in question. Moreover, the petitioners have already surrendered before the trial court and released on bail on their furnishing bail/surety bonds. In support, he relies upon judgments of this Court, passed in **CRM-M-16449-2018**, titled as **“Satish Kumar vs. State of Haryana and another”** and **CRM-M-30911-2021**, titled as **“Ram Kumar Rana vs. State of Haryana and another”**.

6. Notice of motion.

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7. Mr. Gaurav Bansal, DAG, Haryana, who is present in Court accepts notice on behalf of the respondent-State.

8. I have heard learned counsel for the petitioners and gone through the paper book.

9. Once, the complaint under Section 138 of the Act, 1881 already stands withdrawn by the complainant on having received the amount in dispute, no useful purpose is going to be served by carrying on with the proceedings arising out of the present FIR. Moreover, the petitioners have already surrendered before the trial court and released on bail on their furnishing bail/surety bonds. Even otherwise, the case of the petitioners is fully covered with the judgments passed by this Court in **Satish Kumar's** case (supra) and **Ram Kumar Rana's** case (supra).

10. Accordingly, the petition is allowed. FIR No.173, dated 15.03.2023, under Section 174-A IPC, registered at Police Station Faridabad Kotwali, Faridabad and all other subsequent proceedings arising therefrom are ordered to be quashed.

25.05.2023

Tejwinder/sonika

(HARKESH MANUJA)**JUDGE**

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>