

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

121

CRM-M-32245-2023 (O&M)

Date of decision: 07.07.2023

Sunil Gupta and Anr.

....Petitioners

Versus

State of Haryana and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Nipun Gupta, Advocate for the petitioner

AMAN CHAUDHARY. J.

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.353 dated 22.06.2023, registered under Section 174-A IPC, 1860, at Police Station Kotwali, District Faridabad.

2. Learned counsel contends that the petitioners gained knowledge of the complaint filed against them from respondent No.2 only in March, 2023, whereafter the matter was amicably settled and the amount of dishonored cheque i.e. Rs.10 lacs was paid on 24.05.2023 (Annexure P-3), as per the settlement of even date, Annexure P-2. Consequently, the complaint was withdrawn vide order dated 14.06.2023, Annexure P-5, after recording the statement of the complainant as noticed therein. The no objection certificate dated 27.06.2023 issued by respondent No.2 has been placed on record as Annexure, P-6. However, during the interregnum, petitioners were declared proclaimed persons without following the procedure under Section 82 Cr.P.C.

3. Notice of motion.

4. Mr. Praveen Bhadu, AAG Haryana appears on receipt of advance notice and has no objection to the prayer made in view of the compromise.

5. No order prejudicial to the rights of the complainant-respondent No.2 is being proposed to be passed by this Court, therefore, there is no necessity of issuing notice to it to seek a response at this stage.

6. Heard.

7. Admittedly, the parties have compromised the matter and consequently, the complaint under Section 138 of the N.I. Act itself was ordered to be withdrawn before the trial Court vide order dated 14.06.2023, Annexure P-5, which reads thus:

“File put up before me as an application for withdrawing the present complaint has been moved by Ld. Counsel for the complainant. Fresh POA on behalf of complainant filed by Sh. Puneet Bhatia, Adv. At this stage, Ld. Counsel for the complainant has appeared and has suffered a separate statement that the complainant has received the cheque amount from the accused. Therefore, on behalf of complainant, he does not want to pursue the present complaint and withdraws the same. His statement to this effect recorded separately. This Court is satisfied, in light of the statement of Ld. Counsel for the complainant, that there are sufficient grounds to permit him to withdraw the present complaint. Heard. In view of the statement made by Ld. Counsel for the complainant, the present complaint is dismissed as withdrawn under Section 257 of the Code of Criminal Procedure, 1973. File be consigned to record room after due compliance.”

8. It would be apt to make a reference to the no objection certificate dated 27.06.2023, Annexure P-6 submitted by respondent No.2, wherein it is stated that:

“I, Purushottam Lal Gupta, Proprietor of M/s Metal Trading Company having its registered office at B-271, NEHRU GROUND, NIT FARIDABAD-121001 do hereby confirm that we have No Objection whatsoever if the FIR No.353 of 2023 registered at Police Station Kotwali, Faridabad is quashed by the Hon’ble Court. I state that my dispute with the Accused, Mr. Sunil Gupta and Mr. Vijay Kumar Gupta has been settled and I have withdrawn the Complaint Case No. NACT 1341 of 2019 also.”

9. In similar set of facts and circumstances, while placing reliance on the judgments of **Microqual Techno Ltd. vs. State of Haryana**, 2015 (32) RCR (Criminal) 790; **Rajneesh Khanna vs. State of Haryana and another**, 2017 (3) L.A.R. 555, CRM-M32612 of 2020, **Surender Singh v. State of Haryana and another** decided on 12.01.2021, the proceedings initiated under Section 174-A IPC, were quashed by this Court in the case of **Murli Jha vs State of Haryana** 2021(3) R.C.R.(Criminal)563, by observing therein that, “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 orders passed by the trial Court cannot be permitted to continue.”

10. Considering the aforesaid facts and circumstances of the case and the decisions referred, this Court finds that the continuation of proceedings against the petitioner pursuant to FIR in question, would be an abuse of process of law. Accordingly, the present petition is allowed and FIR No.353 dated 22.06.2023, registered under Section 174-A IPC, 1860, at Police Station Kotwali, District Faridabad, is quashed.

(AMAN CHAUDHARY)
JUDGE

July 07, 2023

M.Kamra

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No