

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

116

CRM-M-38802-2023

Date of decision: 08.08.2023

Harish Mehndiratta

....Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Nitin Kadian, Advocate for
Mr. Yashveer Kharb, Advocate, for the petitioner.

AMAN CHAUDHARY. J.

1. The present petition has been filed for quashing of order dated 13.02.2023, Annexure P-3, passed by the Judicial Magistrate First Class, Hisar, whereby the petitioner has been declared as proclaimed person and the consequential FIR No.231 dated 19.04.2023, registered under Section 174-A IPC at Police Station Urban Estate Hisar, District Hisar, Annexure P-4.

2. Learned counsel contends that the petitioner is running a business of hosiery goods under the name and style of M/s Manan Creations and had business relations with respondent No.2. An outstanding balance of Rs.21,617/- was to be paid by his firm to respondent No.2, who had some advance cheques from the said firm and without informing the petitioner, presented the same, which got dishonoured. Thereafter, a complaint under Section 138 of NI Act, 1881 was filed, however, during the pendency of which, an amount of Rs.20,000/- was paid by the petitioner on 05.03.2020, and respondent No.2 assured him that he will withdraw the said complaint. However, the complaint still being pending, proceedings continued and consequently, the petitioner, being unaware about the same, was

declared proclaimed offender vide order dated 13.02.2023, Annexure P-3, further, leading to lodging of FIR No.231, dated 19.04.2023, Annexure P-4. Thereafter, the matter having been compromised, respondent No.2 withdrew his complaint on 07.06.2023, Annexure P-5. The petitioner had also been granted concession of anticipatory bail by the trial Court vide order dated 17.06.2023, Annexure P-6.

3. Notice of motion.

4. Mr. Jagdish Manchanda, Additional AG Haryana, appears on receipt of advance notice and has no objection to the prayer made in the present petition.

5. In view of the nature of order which this Court proposes to pass, there is no necessity of calling upon any response from respondent No.2, as no order prejudicial to the rights of any party is being passed.

6. Heard.

7. It is apposite to refer to the order dated 07.06.2023, Annexure P-5, passed by the trial Court, whereby the complaint in question itself was ordered to be withdrawn, which reads thus:

“Original file received from record room on the application for put up the case file, which has been moved by learned counsel for the complainant. Ahlmad is directed to restored the case at its original number.

Learned counsel for the complainant-firm has made a statement that complainant-firm has compromised the matter with the accused so, as per instructions of the complainant-firm, he does not want to pursue with the present complaint and wants to withdraw the same.

Heard. In view of the statement made by learned counsel for the complainant, the present complaint is hereby dismissed as withdrawn.

File be consigned to record room after due compliance.”

8. In **Baldev Chand Bansal vs. State of Haryana and another**, CRM-M-43813-2018, decided on 29.01.2019, this Court quashed the FIR registered

under Section 174-A IPC in pursuance of the settlement arrived at between the parties, and held thus:

“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.

xxx xxx xxx

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.

xxx xxx xxx

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. 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 vs. 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. It is manifest from the afore-referred judgments, that where the main case itself was got dismissed as withdrawn, continuation of proceedings under Section 174-A IPC were held to be abuse of process. Similarly, in the present case, the petitioner was declared a proclaimed person, pursuant to which the impugned FIR was registered, wherein anticipatory bail was granted to him and the main complaint itself stands withdrawn.

11. In **Jugesh Sehgal vs. Shamsher Singh Gogi**, (2009) 14 SCC 683, Hon’ble The Supreme Court, with respect to the powers under Section 482 CrPC held that the same need to be exercised, where the Court is convinced, on the basis of material on record, that allowing the proceedings to continue would be an abuse of the process of the court.

12. In view of the afore discussion, this Court finds no justifiable reason to continue with the proceedings in the FIR in question. Accordingly, the present petition is allowed. The impugned order dated 13.02.2023 passed by the Judicial Magistrate First Class, Hisar and the resultant FIR No.231, dated 19.04.2023, registered under Section 174-A IPC at Police Station Urban Estate Hisar, District Hisar, are hereby quashed.

(AMAN CHAUDHARY)
JUDGE

08.08.2023

Ankur

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