

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

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CRM-M-38993-2023 (O&M)

Date of decision: 09.08.2023

Virender Singh

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Kartar Singh, Advocate for the petitioner

AMAN CHAUDHARY. J.

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of impugned order dated 18.08.2022 passed by Judicial Magistrate 1st Class, Sirsa in complaint bearing No. NACT-1379-2018 dated 11.10.2018 titled as “M/s A-One Enterprises vs. Virender Singh” vide which the petitioner was declared as proclaimed person as well as for quashing of FIR No.1025 dated 16.11.2022 registered under Section 174-A IPC at Police Station Civil Line, Sirsa, District Sirsa.

2. Learned counsel contends that the petitioner was summoned in the complaint filed under Section 138 NI Act vide order dated 03.12.2018, Annexure P-2, however, due to the Covid-19 situation, bailable-warrants were not executed and they were issued again for 01.04.2021. On their non-execution, non-bailable warrants were issued for 16.03.2022, vide order dated 15.12.2021. Due to non-execution of the warrants, the petitioner was declared a proclaimed person vide order dated 18.08.2022, Annexure P-6. Consequently, FIR under Section

174-A IPC was also registered on 16.11.2022, Annexure P-7. Be that as it may, a compromise had been arrived at between the parties and the cheque amount stood paid, whereafter, the complaint itself was dismissed as withdrawn vide order dated 22.09.2022, Annexure P-8. The continuation of the present proceedings would amount to abuse of process of Court.

3. Notice of motion.

4. Mr. B.S. Virk, Sr. DAG Haryana, appears on receipt of advance notice and has no objection to the prayer made in view of the withdrawal of the complaint.

5. No order prejudicial to the rights of the complainant is being proposed to be passed by this Court, thus, there is no requirement for it to be arrayed as party respondent.

6. Heard.

7. It is apposite to refer to the order dated 22.09.2022, Annexure P-8, passed by the trial Court, whereby the complaint in question itself was ordered to be withdrawn, which reads thus:

“An application for taking up the case file and permission to withdraw the complaint has been moved before this Court on behalf of the complainant. In view of the averments made in the application, the application is considered and allowed. It stands disposed off. It be tagged with the main case file.

On the perusal of the record, it is reflected before this Court that the present case is pending at the stage of recording the statement of complainant under Section 299 Cr.P.C. However, complainant has made a statement in writing in this Court that accused has paid the entire cheque amount alongwith compensation to him and now he does not want to proceed with the present complaint.

In view of the statement of complainant, the present complaint stands dismissed as withdrawn. File after due completion and registration be consigned to records.”

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

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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. 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 main complaint was withdrawn on 22.09.2022, on account of the payment of the entire cheque amount by the petitioner, however, two months thereafter, the impugned FIR was registered on 16.11.2022.

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 18.08.2023 passed by Judicial

Magistrate 1st Class, Sirsa in Complaint No.NACT/1379/2018 and the resultant FIR No.1025 dated 16.11.2022 under Section 174-A IPC, 1860 registered at Police Station Civil Line, Sirsa, District Sirsa, are hereby quashed.

(AMAN CHAUDHARY)
JUDGE

August 09, 2023
M.Kamra

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