

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

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CRM-M-39884-2023 (O&M)

Date of decision: 16.08.2023

Mohit Lakra

..Petitioner

Versus

State of Haryana and another

..Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Raj Kumar Chandana, Advocate for the petitioner

AMAN CHAUDHARY, J

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of order dated 09.12.2021, Annexure P-1, vide which petitioner has been declared proclaimed person as well as FIR No. 50 dated 23.01.2022, registered under Section 174-A IPC, at Police Station Ganaur, District Sonapat, Annexure P-2.

2. Learned counsel contends that a complaint under Section 138 of the Negotiable Instruments Act was filed against the petitioner. The matter was amicably settled between the parties and the complainant had received Rs.3,50,000/- in lieu of the cheque amount. He assured the petitioner that all the legal proceedings pending against him would be withdrawn and as such, the petitioner did not cause appearance before the Court. Resultantly, he was declared a proclaimed person vide order dated 09.12.2021, Annexure P-1. Consequently, FIR under Section 174-A IPC was also registered on 23.01.2022, Annexure P-2.

Be that as it may, subsequently, the complaint itself was dismissed as withdrawn vide order dated 07.07.2023, Annexure P-3, in view of the compromise, thus, the continuation of the present proceedings would amount to abuse of process of Court.

3. Notice of motion.

4. Mr. Jagdish Manchanda, Addl. AG, 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 private respondent is being proposed to be passed by this Court, thus, there is no requirement for the notice to be issued to him.

6. Heard.

7. It is apposite to refer to the order dated 07.07.2023, Annexure P-3, passed by the trial Court, whereby the complaint in question itself was ordered to be withdrawn, the relevant portion thereof reads thus:

“..The complainant suffered a statement, separately recorded that he has compromised the matter with the accused and he has received Rs.3.50,000/- in lieu of the cheque amount and nothing is due against the accused. Therefore, he does not want to pursue further with the present complaint and wants to withdraw the same. The complainant has been duly identified by his respective counsel. Accordingly, the present complaint is hereby dismissed as withdrawn. The accused is discharged. File be consigned to the 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 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.

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 main complaint was withdrawn on 07.07.2023, on account of the payment of the entire cheque amount by the petitioner, however, the impugned FIR was registered on 23.01.2022.

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 09.12.2021, Annexure P-1, passed

by Sub Divisional Judicial Magistrate, Ganaur in Complaint No.NACT/131/2018
and the resultant FIR No. 50 dated 23.01.2022, registered under Section 174-A
IPC at Police Station Ganaur, District Sonapat, Annexure P-2, are hereby quashed.

16.08.2023

(AMAN CHAUDHARY)
JUDGE

Ankur

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No