

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

265

CRM-M-47464-2021
Decided on : April 19, 2023

RITU

..... Petitioner

Versus

STATE OF HARYANA AND ANOTHER

..... Respondent

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Karan Garg, Advocate
for the petitioner.

Mr. Vikrant Pamboo, DAG, Haryana.

Mr. Sumit Batra, Advocate for respondent no.2/complainant.

NAMIT KUMAR, J. (Oral)

This petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.0202 dated 29.03.2020 under Section 174-A of IPC registered at Police Station Urban Estate Hisar, District Hisar (Annexure P-11) and all subsequent proceedings arising therefrom.

On 26.11.2021, notice of motion was issued and the following order was passed by a Co-ordinate Bench of this Court:-

“ The instant petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.0202 dated 29.03.2020, registered under Section 174-A of IPC at Police Station Urban Estate, Hisar and all subsequent proceedings arising therefrom and also for staying the proceedings during the pendency of the petition.

Notice of motion for 25.02.2022. ”

Learned counsel for the petitioner submits that in the complaint under Section 138 of Negotiable Instruments Act, 1881 filed by respondent no.2/complainant, the petitioner was summoned by the trial court vide order dated 30.11.2017 (Annexure P-2) for appearing on 16.03.2018, however, a perusal of order dated 16.03.2018 (Annexure P-3) shows that service upon the petitioner was effected through her '*Jeth*' and the petitioner did not receive any summon/notice, therefore, she could not appear before the trial court on the date of hearing i.e. 16.03.2018, as she was not informed by her *Jeth* about the summons, resultantly, non-bailable warrants were issued against her and consequential proceedings under Section 82 of Cr.P.C. were initiated against her, which ultimately resulted into registration of FIR No.0202 dated 29.03.2020 (Annexure P-11) and initiation of proceedings under Section 174-A IPC.

He further submits that the main dispute which was under Section 138 of the Negotiable Instruments Act, out of which, proceedings under Section 174-A of IPC have been emerged, had already been dismissed as withdrawn vide order dated 10.07.2021 (Annexure P-15) passed by learned Presiding Officer, National Lok Adalat-cum-JMIC Exclusive Court, N.I. Act, Hisar, as the matter had been compromised between the parties.

He submits that once the original proceedings have come to an end with the compromise effected between the parties, therefore, the present proceedings under Section 174-A of IPC arising out of the original proceedings should also come to an end. To support his contention he relies upon the judgment of this Court passed in '*Aditya Goyal vs. State of Haryana*' CRM-M-11269-2019 decided on 07.05.2019.

In the above said judgment, this Court has quashed the proceedings under Section 174-A of IPC where the main proceedings have already been concluded. The relevant portion from **Aditya Goyal's case (Supra)** is as under:-

*“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 174-A of IPC shall be nothing but an abuse of the process of law.***

Learned State counsel, on instructions from the Investigating Officer, has not disputed the factual position.

After hearing learned counsel for the parties, I find merit in the present petition.

Since the main complaint filed by the complainant under Section 138 of the N.I. Act itself stands dismissed as withdrawn by the trial Court keeping in view the fact that petitioner has cleared the entire dues and on the direction of this Court, the petitioner has already appeared before the Investigating Officer and has also deposited the cost of `10,000/- with the Illaqa Magistrate, this Court is of the opinion that continuation of proceedings under Section 174-A IPC shall be an abuse of process of law.

Accordingly, in view of the facts and circumstance of the case and also in view of the judgments relied upon by the petitioner, this petition is allowed and order dated 03.12.2018 (Annexure P-1), passed by the trial Court in Criminal Complaint No. 1624/2017 dated 12.09.2017, filed under Section 138 of the N. I. Act, vide which, the petitioner has been declared a proclaimed person as well as other consequential proceedings arising therefrom

including FIR No. 66 dated 01.02.2019, registered under Section 174-A IPC at Police Station Jagadhri City, District Yamuna Nagar (Annexure P-2) are hereby quashed.”

To the same effect, another judgment passed in '**Lakhwinder Singh versus State of Punjab**' CRM-M-37155-2021 decided on 16.11.2021 also supports the present case.

Learned State counsel has not disputed the fact that the matter has been compromised.

A perusal of orders dated 01.07.2021 and 10.07.2021 passed by the learned Presiding Officer, National Lok Adalat-cum-JMIC Exclusive Court, N.I. Act, Hisar, makes it clear that the complainant-respondent no.2 has withdrawn the complaint under Section 138 of Negotiable Instruments Act, 1881. Consequently, no fruitful purpose would be served in continuing the proceedings under Section 174-A of IPC.

Consequently, the present petition is allowed and the impugned FIR No.0202 dated 29.03.2020 under Section 174-A of IPC registered at Police Station Urban Estate Hisar, District Hisar (Annexure P-11) and all subsequent proceedings arising therefrom, are hereby quashed, on the basis of compromise, *qua* the petitioner only.

April 19, 2023
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(NAMIT KUMAR)
JUDGE

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