

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

SR. No.290

CRM-M-43259-2023

Date of decision:-07.12.2023

Maninder Singh

..... Petitioner

Versus

State of Haryana and another

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE N.S. SHEKHAWAT

Present: Mr. Amit Khari, Advocate for the petitioner.

Mr..Dhruv Sihag, AAG, Haryana.

Ms. Deepika Sood, Advocate for respondent no.2.

N.S. SHEKHAWAT, J.

1. The petitioner has filed the present petition under Section 482 of Criminal Procedure Code, 1973 with a prayer to quash FIR No.895 dated 01.09.2018 registered under Section 174-A IPC at Police Station, Chandnibagh, District Panipal (Annexure P-1) and all consequential proceedings arising therefrom.

2. Learned counsel for the petitioner contends that in the present case respondent No.2/Bank had filed a complaint, i.e. NACT-1681-2016 under Section 138 of the Negotiable Instruments Act, 1881 (for short the N.I. Act) against the present petitioner on account of dishonor of Cheque No.10 dated

15.05.2016, which was allegedly issued by the petitioner for payment of loan amount of Rs.22,299/-. After issuing of the summoning order, the summons were sent at the address of the petitioner which was mentioned in the instant petition. However, the petitioner had sold his house No.480, 1st Floor, Sector-11 Panipat, which was mentioned in the complaint and he had shifted to his new address i.e. House No.831, Sector-12, HUDA, Panipat.

3. Learned counsel for the petitioner submits that all the summons/warrants issued to the petitioner could not be served as the summons were sent at the old address of the petitioner. Even from the report dated 19.01.2018 (Annexure P-3), it is clear that the non-bailable warrants were received back unexecuted with report 'left the property'. Even though the petitioner was never served, still vide order dated 30.05.2018 (Annexure P-4), the Court of Judicial Magistrate First Class, Panipat declared the petitioner to be a proclaimed person. After some time, the petitioner visited the respondent-Bank for One Time Settlement and came to know about the pendency of the complaint under Section 138 of the N.I. Act filed by respondent No.2-Bank against him. The petitioner arranged the loan amount and made the entire payment to respondent no.2/Bank. Since the matter was amicably resolved between the parties, respondent No.2 made a statement (Annexure P-5) to withdraw the complaint from the trial Court and vide order dated 11.12.2018 (Annexure P-6), the complaint was dismissed as withdrawn.

4. Learned counsel for the petitioner contends that in the meantime, the present FIR was registered against the present petitioner on 01.09.2018. Learned counsel further submits that in fact the petitioner had no knowledge

with regard to the pendency of the complaint filed by respondent No.2/Bank as summons were not sent at his address. However, when the petitioner came to know about the pendency of the complaint, he immediately made the payment to respondent No.2/Bank and the matter was compromised between the parties. Learned counsel further contends that since the complaint under Section 138 of the N.I. Act has already been withdrawn by respondent No.2/Bank, the continuation of the proceedings under Section 174-A IPC would be an **instrument** of misuse of the process of law.

5. On the other hand, learned counsel for respondent No.2/Bank has filed her Vakalatnama and power of attorney and submits that she has no objection in case the present FIR is ordered to be quashed by this Court, as the main case already stands withdrawn.

6. I have heard learned counsel for the parties and perused the record.

7. This Court in **CRM-M-43813-2018** titled as **“Baldev Chand Bansal Vs. State of Haryana and another, decided on 29.01.2019**, has held as under:-

"Prayer in this petition is for quashing of FIR No.64 dated 15.02.2017 under [Section 174-A](#) IPC, registered at Police Station Sector-5, Panchkula as well as the 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, Micrqual 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.

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.”

8. In the present case also, the proceedings under Chapter VI (Processes to compel appearances) were initiated against the petitioner to secure his presence and to establish the rule of law, so that the proceedings could be finalized. Once, the parent dispute stood amicably resolved, proceedings initiated as a result of intermediary orders would not subserve any interest of justice. The proceedings under Section 138 of the Act, being *quasi* criminal, the object is to resolve the dispute and when such an object is served, the Court should adopt liberal approach towards the accused, who has already redressed the grievance of the complainant. Consequently, keeping in view that the service was not correctly and appropriately affected upon the petitioner in the instant case as well as the fact that the main case already stood settled in view of the compromise executed between the parties and the complaint having been withdrawn by the respondent, the continuation of the proceedings arising out of the present FIR No.895 dated 01.09.2018 under Section 174-A, registered at

Police Station Chandnibagh, District Panipat would be an instrument of misuse of the process of the law.

In view of above-discussion, the present petition is allowed and resultantly, FIR No. 895 dated 01.09.2018 registered under Section 174-A IPC, at Police Station Chandnibagh, District Panipat is quashed qua the petitioner along with all the consequential proceedings arising therefrom.

07.12.2023
mks

(N.S.SHEKHAWAT)
JUDGE

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