

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

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CRM-M-45346-2023 (O&M)
Date of decision: 21.09.2023

Ajay

....Petitioner

Versus

State of Haryana and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Akash Mehta, Advocate for the petitioner

Mr. Dhruv Sihag, AAG Haryana

AMAN CHAUDHARY. J.

CRM-40032-2023

For the reasons mentioned in the application, the same is allowed.

Annexure P-7 is taken on record, subject to all just exceptions.

CRM-M-45346-2023

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.138 dated 06.02.2020, under Section 174-A IPC, registered against the petitioner under consequential proceedings arising out of the order dated 22.01.2020, passed by learned Judicial Magistrate, 1st Class, Kurukshetra in complaint case No.NACT-365-2018.

2. Learned counsel contends that the petitioner was not served in the complaint filed by respondent No.2-Cooperative Bank under Section 138 of the Negotiable Instruments Act wherein he was subsequently declared proclaimed person vide order dated 22.01.2020. It is only when his house was raided by the

police that he came to know the aforesaid fact and lodging of FIR under Section 174-A IPC. Thereafter he settled the matter with the complainant and taking into account the separate statements of both the parties, the petitioner was acquitted by the trial Court, vide order dated 20.02.2023, Annexure P-5, noting that he was bound to deposit an amount of Rs.10,000/- each month till clearance of the cheque account of Rs.2,06,130/-, which he has since been paying every month. He submits that the continuation of the present proceedings would amount to abuse of process of Court.

3. Learned State counsel submits that the FIR has rightly been registered as he has evaded the process and was declared proclaimed person.

4. Mr. Hoshiar Singh, an authorised representative of the complainant-Bank-respondent No.2 has put in appearance and affirms the factum of both the compromise as also the amount of Rs.10,000 being paid by the petitioner regularly.

5. Heard.

6. It is apposite to refer to the order dated 20.02.2023, Annexure P-5, passed by the trial Court, while acquitting the accused, which reads thus:

“3. ...Hence, keeping in view the statements of parties, as the accused has acknowledged his liability to pay the amount, the complaint in hand is hereby disposed of without any order as to costs as the present settlement arrived at between the parties is likely to curb the litigation and delay. The award is passed to the effect that accused is directed to make the payment as per his even dated statement and is bound by his statement. The complainant is also bound by his statement.

4. Before parting with present award, it is made clear that if the accused fails to make the payment as per today's compromise/settlement, then in view of the case law cited as **K.N. Govindan Kutty Menon's Case** (Supra), the

complainant will be at liberty to file the execution qua payment undertaken by the accused today in the Court, in the competent Court. It is also made clear that in case the payment, as undertaken by the accused, is not made by the accused within the time undertaken by him and if the complainant is constrained to initiate proceedings against the accused in the execution proceedings, then the accused shall be liable to pay double of the cheque amount to the complainant and 10% of the cheque amount will also be recovered from the accused as costs to be paid/deposited with the D.L.S.A., Kurukshetra. Accused stands acquitted of the notice of accusation served upon him. His bail/surety bonds are also discharged. File be consigned to Record Room after due compliance.”

7. 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.”

8. 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.”

9. It is manifest from the afore-referred judgments, that where the main case itself was dismissed as withdrawn after a compromise had been entered into, continuation of proceedings under Section 174-A IPC were held to be abuse of process. In a like manner, the petitioner herein stands acquitted by the trial Court on 20.02.2023, the matter having been resolved between the parties on a condition of payment of the cheque amount in installments, which is so being done.

10. 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.

11. 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 FIR No.138 dated 06.02.2020 under Section 174-A IPC, 1860 is hereby quashed. However, it is made clear that the petitioner shall be bound by the terms and conditions of the compromise/settlement and will regularly pay the installments till November, 2024. In the event of his not adhering to the terms of settlement, the respondent has the liberty to revive the petition.

(AMAN CHAUDHARY)
JUDGE

September 21, 2023
M.Kamra

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