

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

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CRM-M-51393-2023
Date of decision: 10.10.2023

Lalit Kumar

...Petitioner

Versus

State of Haryana and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. V. B. Godara, Advocate for the petitioner

AMAN CHAUDHARY. J.

1. The present petition has been filed for setting aside the order dated 02.08.2023 passed by learned Judicial Magistrate 1st Class, Fatehabad declaring the petitioner as proclaimed person in complaint No.NACT-1203-2019 filed under Section 138 NI Act and quashing of FIR No.240 dated 10.08.2023, registered under Section 174-A IPC, at Police Station Ratia, District Fatehabad.

2. Learned counsel contends that the petitioner was summoned in a complaint under Section 138 NI Act on account of dishonour of a cheque amounting to Rs.50,000/- out of the borrowed amount of Rs.1,50,000 taken by him from the complainant-respondent No.4 on friendly basis for his personal needs. Thereafter, since in the complaint his wrong address was mentioned, thus he could not be served, leading to him having been declared a proclaimed person, as a consequence of which, the impugned FIR under Section 174-A IPC, was

registered on 10.08.2023. However, immediately on coming to know of it, he took steps to settle the dispute and the complainant made a statement before the trial Court, that he does not wish to pursue the matter anymore and the complaint was ordered to be withdrawn vide order dated 10.08.2023. The absence of the petitioner was neither wilful nor deliberate and he was declared proclaimed person without having been served as his address was wrongly mentioned in the complaint, thus, the said order is liable to be set aside and in view of the fact that the complaint itself was dismissed as withdrawn, the continuation of the present proceedings would amount to abuse of process of Court, as such the present petition may be allowed.

3. Mr. Jagdish Manchanda, Additional AG Haryana, appears on receipt of advance notice and submits that the trial Court had rightly passed the orders.

4. There is no necessity of issuing notice to call upon for any response from respondent No.4, in view of the order dated 10.08.2023, whereby the complaint stands withdrawn by him.

5. Heard.

6. It is apposite to refer to the order dated 10.08.2023, passed by the trial Court, whereby the complaint in question itself was ordered to be dismissed as withdrawn, which reads thus:

“Copy of FIR in compliance of the last zimni order has been received. At this stage, complainant appeared and suffered a statement that compromise has been effected with the accused, so at this stage, he does not want to pursue the present complaint and wants to withdraw the same. He has been duly identified by his counsel. Heard. In view of the

above statement, the present complaint is hereby dismissed as withdrawn. File be consigned to the 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 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. In the present case, the petitioner was declared a proclaimed person on 02.08.2023, pursuant to which the impugned FIR was registered on 10.08.2023 and the main complaint itself stood withdrawn on 10.08.2023 itself, hence this Court finds no justifiable reason to continue with the proceedings in the FIR in question, which being an abuse of the process of the court, are liable to be quashed in exercise of power under Section 482 CrPC, as held in **Jugesh Sehgal vs. Shamsheer Singh Gogi**, (2009) 14 SCC 683.

10. Accordingly, the present petition is allowed. The impugned order dated 02.08.2023 passed by the Judicial Magistrate First Class, Fatehabad is set aside and the resultant FIR No.240, dated 10.08.2023, registered under Section 174-A IPC, at Police Station Ratia, District Fatehabad, is hereby quashed.

10.10.2023
Mehak

(AMAN CHAUDHARY)
JUDGE

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