

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

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CRM-M-50816-2023 (O&M)

Date of decision: 09.10.2023

Angrej Singh

....Petitioner

Versus

State of Haryana and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Rajiv Sharma, Advocate for the petitioner

AMAN CHAUDHARY. J.

1. The present petition has been filed for quashing of FIR No.1242 dated 06.08.2023, registered under Section 174-A IPC, at Police Station Karnal Civil Lines, District Karnal as well as for setting aside the orders dated 15.12.2018 and 06.01.2020 declaring the petitioner as proclaimed person in complaint No.NACT-2798-2019 dated 24.08.2017 filed under Section 138 NI Act.

2. Learned counsel contends that the petitioner was summoned in a complaint under Section 138 NI Act on account of cheques given for payment of rent for the premises where he had started his poultry business, having gotten dishonored. As a matter of fact, he had taken a loan of Rs.6 lacs from his relatives to start the business, wherein he suffered losses and due to which, he could not even pay the rent of the premises as also was unable to pay the price of a mobile that he had purchased. The petitioner had sold his house and lived on rent in nearby areas, as a result of which, he could not get information for two years about the present case and was not served. He was declared a proclaimed person on 15.12.2018, whereupon he

surrendered and was granted bail by the trial Court, however again, on his absence, he was declared a proclaimed person vide order order 06.01.2020. Upon the registration of the impugned FIR under Section 174-A IPC, he came to know about the fact that he had been declared a proclaimed person for the second time and immediately took steps to settle the dispute. Thereafter, the complainant made a statement on 28.08.2023 that he has received the amount in view of the compromise and the complaint was dismissed as withdrawn by the trial Court vide order dated 29.08.2023, Annexue P-5. The absence of the petitioner is neither wilful nor deliberate on account of the reason aforesaid and that after the complaint itself was dismissed as withdrawn, the continuation of the present proceedings would amount to abuse of process of Court.

3. Notice of motion.

4. Mr. Jagdish Manchanda, Additional AG Haryana, appears on receipt of advance notice and has no objection to the prayer made in the present petition.

5. There is no necessity of issuing notice to call upon for any response from respondent No.2, in view of the order withdrawing the complaint.

6. Heard.

7. It is apposite to refer to the order dated 29.08.2023, Annexure P-5, passed by the trial Court, whereby the complaint in question itself was ordered to be withdrawn, which reads thus:

“Keeping in view the statement on 28.08.2023 made by Id. Counsel for the complainant, present complaint is hereby dismissed as withdrawn.

Since the file has already been withdrawn and there is no necessity to get the name of surety recorded in record for perpetuity and accordingly, directions are hereby issued to the Revenue Authority/competent authority to delete the name of surety from the relevant record. File be consigned to 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 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.”

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. In the present case, the petitioner was declared a proclaimed person, pursuant to which the impugned FIR was registered after more than three years and the main complaint itself stood withdrawn, hence this Court finds no justifiable reason to continue with the proceedings in the FIR in question, which 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, being an abuse of the process of the court.

11. Accordingly, the present petition is allowed. The impugned orders dated 15.12.2018 and 06.01.2020 passed by the Judicial Magistrate First Class, Karnal are set aside and the resultant FIR No.1242, dated 06.08.2023, registered under Section 174-A IPC at Police Station Karnal Civil Lines, District Karnal, is hereby quashed.

(AMAN CHAUDHARY)
JUDGE

October 09, 2023

M.Kamra

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No