

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

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**CRM-M-53195-2022
Decided on : 08.02.2023**

Nirmaljit Singh

. . . Petitioner(s)

Versus

State of Haryana and others

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Manvir Singh Toor, Advocate for
Mr. Sandeep Kumar Bokolia, Advocate
for the appellant(s)/petitioner(s).

Mr. Pawan Kumar Jhanda, AAG, Haryana.

SANJAY VASHISTH, J. (Oral)

1. Instant petition has been filed under Section 482 Cr.P.C., for quashing of FIR No. 671, dated 25.08.2022, under Section 174-A of IPC, registered at Police Station Sirsa City, District Sirsa (Annexure P-1), and all consequential proceedings arising therefrom.

2. On bouncing of cheque amounting to Rs.1,22,030/- of State Bank of India, petitioner was facing Criminal Complaint No. NACT-99/2019, dated 29.01.2019, under Section 138 of the Negotiable Instruments Act, 1881 (for brevity, 'NI Act'). In the said proceedings, petitioner was declared 'proclaimed offender' by the Court of Ld. Judicial Magistrate Ist Class, Sirsa, vide order dated 08.08.2022 (Annexure P-2). Subsequently, impugned FIR has been registered on the basis of order dated 08.08.2022 (Annexure P-2), by which petitioner was declared proclaimed offender.

3. After passing of the aforesaid order, entire amount was paid back to the complainant along with compensation, and thereafter, the complaint filed under Section 138 of the Negotiable Instruments Act, 1881 (for brevity, 'NI Act'), already stood withdrawn on 26.08.2022, in view of the compromise

entered between the parties. In support of this fact, order dated 26.08.2022 passed by learned JMIC Sirsa, is annexed with the petition as Annexure P-3.

It is also noticed that just one day prior to that, impugned FIR No.174 under Section 174-A IPC, was registered on 25.8.2022.

4. Learned counsel for the petitioner further submits that declaration of the petitioner as proclaimed offender, and thereafter, registration of FIR under Section 174-A of IPC, would not be considered material proceeding, once main offence from which such proceedings emerged, has already been compromised between the private parties. In support of the contention, learned counsel relies upon judgment dated 13.07.2022 passed in ***CRM-M-12034-2022 (Hitesh H. Shah v. State of Haryana and another)***. He submits that case of the petitioner is completely identical on the facts and law to that of the referred judgment.

5. Mr. Pawan Kumar Jhanda, AAG, Haryana, submits that impugned order has been passed as per law by following all the provisions of Cr. P. C., and therefore, same is worth to sustain. However, he is not disputing the fact that the very dispute out of which proceedings have been initiated under Section 174-A IPC stands finalised and the main petition under Section 138 of NI Act has already been withdrawn on 26.08.2022.

6. I have heard learned counsel for the parties and have also gone through the case record available before me.

7. It seems to be undisputed that cheque amount of Rs.1,22,030/- along with compensation has been paid by the petitioner, as said fact is recorded in the Court order dated 26.08.2022 itself. In paragraph Nos. 5, 6 & 8 of the present petition also, factum of compromise and withdrawal of the complaint case has been explained. Said paragraphs are reproduced hereinbelow:-

- “5. That as soon as the petitioner came to know about the fact that he has been declared proclaimed offender, he immediately approached respondent No.3 and a compromise was affected between the parties and after the compromise, the respondent no.3 has withdrawn the complaint as the petitioner has paid the entire cheque amount alongwith compensation to the respondent no.3. A copy of order dated 26.08.2022 withdrawing the complaint is attached herewith as Annexure P-3.
6. That it is humbly submitted that petitioner was not aware regarding the proceedings under Section 138 N.I. Act. After becoming aware regarding the proceedings petitioner has immediately cleared the amount and has settled the matter with respondent no.3.
- The instant FIR is offshoot of the proceedings in the complaint case under Section 138 N.I. Act. It is not the case that petitioner had initially appeared and then stopped appearing in the ld. Trial Court but in this case petitioner was not aware regarding the proceedings going on in the competent Court under Section 138 N.I. Act against him.
8. That at this stage, the petitioner has settled the matter with the respondent no.3 after making all the payment alongwith compensation. The intention of the petitioner was never malafide.”

8. A co-ordinate Bench of 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 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.

xxx xxx xxx

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. A perusal of the above judgment would show that in a similar case where the FIR had been registered under Section 174-A IPC in view of the order passed in proceedings under Section 138 of the Act, while declaring the petitioner therein as proclaimed offender, a co-ordinate Bench after relying upon various judgments observed that once the main petition under Section 138 of the Act stands withdrawn in view of an amicable settlement between the parties, the continuation of proceedings under Section 174-A IPC is nothing but an abuse of the process of law. The said aspect was one of the main consideration for allowing the petition and setting aside the order declaring the petitioner therein as proclaimed person as well as quashing of the FIR under Section 174-A IPC.

10. Another co-ordinate Bench of this Court in a case titled as **“Ashok Madan v. State of Haryana and another”** reported as **2020(4) RCR (Criminal) 87** has also held as under:-

“No doubt, the learned counsel for the respondent has vehemently argued that the offence under Section 174A I.P.C. is independent of the main case, therefore, merely because the main case has been dismissed for want of prosecution, the present petition cannot be allowed, however, keeping in view the fact that the present FIR was registered only on account of absence from the proceedings in the main case which had been subsequently regularised by the court while granting bail to the petitioner, the default stood condoned. In such circumstances, continuation of proceedings under Section 174A I.P.C. Shall be abuse of the process of court.

7. Accordingly, the petition is allowed. FIR No.446 dated

21.08.2017, registered under Section 174A I.P.C. At Police Station Kotwali, District Faridabad, as well as consequential proceedings shall stand quashed.”

11. Relying upon the said observation, in case of **Hitesh H. Shah** v. **State of Haryana and another** in CRM-M-12034-2022 proceedings under Section 174-A of IPC has been said to be abuse of the process of law, once main dispute between the parties has already ended.

12. Under these circumstances, once the very petition stands withdrawn on the basis of compromise, continuation of the instant FIR under Section 174-A of IPC is nothing but an abuse of process of law. In this regard reliance can be placed upon judgment rendered by this Court in the case of *Microqual Techno Limited and others v. State of Haryana and another-2015(32) RCR (Criminal) 790*, which has also been followed in CRM-M-47891-2021, titled as, *Jitender Singh v. State of Haryana and another*, decided on **16.11.2021**, and the order dated **05.09.2022**, passed by this Court in CRM-M-34291-2022, titled as, *“Pankaj Sharma Vs. State of Haryana and another”*.

13. Accordingly, instant petition is **allowed**. Impugned FIR No.671, dated 25.08.2022, under Section 174-A of IPC, registered at Police Station City Sirsa, District Sirsa, Haryana, along with all subsequent proceedings emanating therefrom are quashed *qua* the petitioner.

(SANJAY VASHISTH)
JUDGE

February 08, 2023
J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No