

207 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-51386-2023 (O&M)

Date of Decision: 19.12.2023

JATINDER PAUL SINGH @ JATINDER PAL SINGH

...Petitioner

V/S

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. P.S. Punia, Advocate
for the petitioner.

Mr. I.P.S. Sabharwal, DAG Punjab.

Mr. Varun Sharma, Advocate
for respondent No. 2.

HARPREET SINGH BRAR J. (Oral)

1. The prayer in the present petition under Section 482 Cr.P.C. is for quashing of order dated 03.03.2017 (Annexure P-1) and FIR No. 0255 dated 08.12.2022 registered under Section 174-A of Indian Penal Code registered at Police Station City Jagraon, District Ludhiana Rural (Annexure P-2) in complaint No. COMP/153/2014 and all subsequent proceedings arising therefrom.

2. Brief facts of the case are that, the complainant/respondent No.2 filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 (in short 'the Act') against the petitioner before the learned Sub Divisional Judicial Magistrate, Jagraon. It is further contended that the petitioner borrowed a sum of Rs. 60,000/- from the complainant/respondent No. 2 and agreed to return the loan amount with interest by way of installments. The petitioner in discharge of his liability, issued a cheque of Rs. 80,000/- dated 29.07.2013 drawn at Axis Bank Tehsil Road Jagraon in favour of the complainant but the said cheque was returned back for the reason "Account

closed”. On the basis of said allegations, the complaint was filed before the trial Court and the concerned Court ordered the petitioner/accused to be summoned but due to unavoidable circumstances the petitioner could not appear before the trial Court and learned Sub Divisional Judicial Magistrate, Jagraon declared the petitioner as **Proclaimed Person** vide the impugned order dated 03.03.2017 (Annexure P-1) and the above mentioned FIR got registered against him. Aggrieved by the same, the petitioner has approached this Court by way of instant petition.

3. Learned counsel for the petitioner *inter alia* contends that a compromise has been effected between the parties. Copy of the Panchayati Compromise is annexed as Annexure P-3. It is further contended that on the basis of aforesaid Panchayati Compromise, the petitioner-accused and respondent No. 2-complainant have recorded their statements before the trial Court on 24.08.2023 to the effect that the petitioner has made the full and final payment of the cheque amount to the complainant-Harjit Singh and the complaint has already been withdrawn on the basis of compromise. But, vide order dated 03.03.2017 (Annexure P-1), the petitioner has already been declared as proclaimed person, in result of which, an FIR under Section 174-A of IPC was got registered against him. It is further contended that the said FIR is liable to be set aside on the ground that the mandate of Section 82 (1) of Cr.P.C. has not been followed in its letter and spirit by the trial Court.

4. He further submits that now matter has been compromised between the parties and the main dispute was under Section 138 of the Act, out of which, proceedings under Section 174-A of IPC have emerged, had already been concluded vide order dated 24.08.2023 passed by the learned

Sub Divisional Judicial Magistrate, Jagraon in which *inter alia* stated that complainant has made a statement in writing before the trial Court that accused has paid the entire cheque amount along with interest to him and now he does not want to proceed with the present complaint.

5. The question which arises for consideration of this Court is whether on account of withdrawal of the complaint under Section 138 of the Act, on the basis of compromise, the proceedings of FIR No.255 dated 08.12.2022 under Section 174-A of IPC deserve to be quashed?

6. The stand of learned counsel representing the petitioner is that the parties have settled the matter amicably which has resulted in withdrawal of the complaint under Section 138 of the Act. In the factual backdrop of this case, undisputedly, once the substantive offence already stands settled between the petitioner and respondent No.2, the proceedings under Section 174-A of IPC would be of no consequence.

7. Reliance in this regard has been placed upon the various pronouncements on the issue involved in the present case. In **CRM-M-43813-2018, Baldev Chand Bansal vs. State of Haryana and another, decided on 29.01.2019, Vikas Sharma vs. Gurpreet Singh Kohli and another, 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 identical circumstances, the Coordinate Benches of this Court have 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, the proceedings under Section 174-A of IPC would not sustain either.

8. A Coordinate Bench of this Court in **Vikas Gupta vs. State of Haryana and others**, while quashing the FIR under Section 174-A of the IPC in **CRM-M-19636-2018** decided on 01.08.2018 has observed the following:-

“The ultimate aim, objective and goal of a legal system is to reconcile the social conflicts. Law is required only to ensure that people do not have to fight with each other just to protect their right to property, right to life and liberty and other rights secured to them by the legal system. The civil disputes are the conflicts between two parties, having lesser overtones for the social order, social harmony or the society as such. Hence absolute freedom is given to the parties to settle their disputes by compromises, of course, coming with certain legal consequences as well. However, the criminal disputes do not necessarily restrict themselves to only two parties to the dispute in terms of their scope, consequences and effect. The criminal acts tend to cast their effect and consequences even upon the society at large. Therefore, the law prescribes punishment, severe punishments and the extreme punishments, including death penalty for criminal acts.”

9. Learned State counsel has filed status report dated 19.12.2023 by way of affidavit of Satvinder Singh Virk, PPS, DSP Jagraon, District Ludhiana (Rural) but has not been able to controvert the aforesaid facts and the position of law as laid down in the aforesaid judgment.

10. This Court, while examining the facts and circumstances of the present case, is *ad idem* with the view taken by the Coordinate Benches of

this Court that once the substantive offence has been settled through compromise between the petitioner and respondent No.2, the proceedings of FIR No. 255 dated 08.12.2022 under Section 174-A of IPC would not sustain either.

11. Accordingly the present petition is allowed. The order dated 03.03.2017 (Annexure P-1) vide which the petitioner has been declared as proclaimed person and the FIR No. 0255 dated 08.12.2022 registered under Section 174-A of IPC registered at Police Station Jagraon District Ludhiana Rural (Annexure P-2) along with all consequential proceedings arising therefrom, are hereby quashed subject to payment of costs of Rs.10,000/- to be deposited with the District Legal Services Authority, Ludhiana for wasting precious time of the Court.

19.12.2023
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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