

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

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CRM-M-51572-2023(O&M)
Date of decision: 11.10.2023

Inderjit Dhamija

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Parminder Singh, Advocate for the petitioner

AMAN CHAUDHARY, J.

1. The present petition has been filed for setting aside the order dated 29.10.2019 declaring the petitioner as proclaimed person and quashing of FIR No.139 dated 16.03.2020, registered under Section 174-A IPC, at Police Station 32-33 Karnal, District Karnal.

2. Learned counsel contends that the petitioner was wrongly declared proclaimed person vide order dated 29.10.2019, since the service of summons and warrant could not be effected upon him, consequent to which present FIR was registered under Section 174-A IPC. However, the complaint instituted against him under Section 138 Negotiable Instruments Act, 1881, Annexure P-2, was settled and therefore the complaint itself was ordered to be withdrawn vide order dated 11.03.2022, Annexure P-2. Thus, the submission made is that continuation of the present proceedings would amount to abuse of process of Court.

3. Mr. Jagdish Manchanda, Additional AG Haryana, appears on receipt of advance notice and submits that the FIR was rightly registered as the petitioner

was declared proclaimed person by the trial Court for having absented, however, the factum of order dated 11.03.2023, whereby the complaint was withdrawn remained uncontroverted.

4. There is no necessity of impleading complainant for any response, in view of the order dated 11.03.2023, whereby the complaint stands withdrawn by him.

5. Heard.

6. It is apposite to refer to the order dated 11.03.2023, passed by the trial Court, whereby the complaint in question itself was ordered to be dismissed as withdrawn, which reads thus:

“Complainant counsel appeared and moved an application to withdraw the present complaint and he mentioned in the application that complainant wants to withdraw the present case as a compromise has been effected between the parties. Original complainant has been died during the pendency of the complaint and his legal heirs has been allowed to contest the present complaint vod 25.02.2022.

Legal heirs of complainant Sh. Dhruv Lather appeared and suffered a statement that his father has been died who was complainant in the present case and his mother had also been died and after their death he himself and his sister who is minor and he is guardian of his sister, compromise has been affected between him and accused. Therefore, in view of compromise he does not want to proceed the present case. Affidavit qua the statement of legal heirs Dhruv Lather also placed on record by him and as per contents of affidavit the deponent (Dhruv Lather) and his minor sister (Harshita) are the only serving legal heirs of Sh. Sandeep Kumar (died) and his sister joined the case through his brother and her next friend and legal heirs Mr. Dhruv Lather of deceased-complainant undertook to be responsible for any claim of his sister Harshita in the present case. In view of statement suffered by legal heirs of complainant and affidavit on record, present complaint dismiss as withdraw. File be sent 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 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 29.10.2019, pursuant to which the impugned FIR was registered on 16.03.2020, however, during the interregnum, the main complaint itself stood withdrawn on 11.03.2022, hence this Court finding that continuation with the proceedings in question would amount to an abuse of the process of the Court, thus, in light of the judgment in **Ramesh Chandra vs. State of U.P.**, 2022 SCC OnLine SC 1634, the FIR is liable to be quashed, in exercise of power under Section 482 CrPC.

10. Accordingly, the present petition is allowed. The impugned order dated 29.10.2019 passed by the Judicial Magistrate First Class, Fatehabad is set aside and the resultant FIR No.139 dated 16.03.2020, registered under Section 174-A IPC, at Police Station 32-33 Karnal, District Karnal, is hereby quashed.

(AMAN CHAUDHARY)
JUDGE

October 11, 2023
M.Kamra

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