

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

SR. No.297

CRM-M-53549-2023 (O & M)
Date of decision:-07.12.2023

Rahul

..... Petitioner

Versus

State of Haryana and another

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE N.S. SHEKHAWAT

Present: Mr. Kushagar Goyal, Advocate for the petitioner.

Mr. Dhruv Sihag, AAG, Haryana.

Ms. Pallavi Babbar, Advocate for respondent No.2-Bank

N.S. SHEKHAWAT, J.

1. The petitioner has filed the present petition under Section 482 of Criminal Procedure Code, 1973 with a prayer to quash the FIR No.1021 dated 15.11.2022 registered under Section 174-A IPC at Police Station Civil Line, Sirsa, District Sirsa, Haryana as well as the order dated 20.11.2022 (Annexure P-4), whereby the petitioner had been declared as a proclaimed person.

2. Learned counsel for the petitioner contends that the respondent/complainant had filed a complaint, i.e. NIA-1230-2018 titled as 'M/s Sarsai Nath Trading Company Vs. M/s Shree Ram Welding Works' under Section 138 of the Negotiable Instruments Act (for short 'the N.I. Act') against

the present petitioner on 05.09.2018. After recording the preliminary evidence, vide order dated 14.11.2018 (Annexure P-3), the petitioner was ordered to be summoned by the trial Court. After passing of the summoning order, the present petitioner was never served at the address, where he was residing and consequently vide impugned order dated 20.10.2022 (Annexure P-4), the present petitioner was ordered to be declared as a proclaimed person. In fact the petitioner was never aware of the order (Annexure P-4) passed by the trial Court. However, after several months, the petitioner came to know about the pendency of the complaint before the trial Court and he immediately settled the matter with the respondent-Bank. In fact on 28.09.2023, the complainant/respondent appeared before the trial Court and stated that he had received the cheque amount along with compensation from the petitioner/accused and nothing was due against the petitioner. Consequently, the complaint was withdrawn by the respondent.Bank. On 28.09.2023 itself, the Court of Judicial Magistrate 1st Class, Sirsa, permitted the complainant/respondent to withdraw the complaint (AnnexureP 6).

3. Learned counsel for the petitioner contends that in the main case itself, the matter has been amicably resolved between the parties and the complaint under Section 138 of the N.I. Act already stands withdrawn by the respondent. He further contends that the matter stands amicably resolved between the parties, the continuation of the proceedings of FIR under Section 174-A IPC shall be an abuse of the process of law. He further contends that in fact the petitioner was not aware of the proceedings in the instant case and his non-appearance was unintentional and bona fide.

4. During the course of hearing vide order dated 30.10.2023, the Court had directed the parties to appear before the Illaqa Magistrate/trial Court for getting their statements recorded qua compromise within a period of two weeks. In compliance with the said order, the parties appeared before the trial and their statements were recorded. The report dated 15.11.2023 has been received from the Court of CJM, Sirsa, wherein it has been reported that the compromise between the parties is genuine, voluntarily and without any coercion and undue influence. Even counsel for respondent No.2-bank has stated that she has no objection in case the present FIR is ordered to be quashed by this Court.

5. I have heard learned counsel for the parties and perused the record.

6. 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 under [Section 174-A](#) IPC, registered at Police Station Sector-5, Panchkula as well as the 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, Micrqual 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 174-A of IPC shall be nothing but an abuse of the process of law.

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.”

7. In the present case also, the proceedings under Chapter VI (Processes of compel appearances) were initiated against the petitioner to secure his presence and to establish the rule of law, so that the proceedings could be finalized. Once, the parent dispute stood amicably resolved, proceedings initiated as a result of intermediary orders would not subserve any interest of justice. The proceedings under Section 138 of the N.I. Act, being *quasi* criminal, the object is to resolve the dispute and when such an object is served, the Court should adopt liberal approach towards the accused, who has already redressed the grievance of the complainant. Consequently, keeping in view that the service was not correctly and appropriately affected upon the petitioner in the instant case as well as the fact that the main case already stood settled in view of the compromise executed between the parties and the complaint having been withdrawn by the respondent, the continuation of the proceedings arising out of the present FIR No.1021 dated 15.11.2022 under Section 174-A,

registered at Police Station Civil Line, Sirsa, District Sirsa, Haryana would be an instrument of misuse of the process of the law.

In view of the above discussion, the instant petition is allowed and resultantly, FIR No. 1021 dated 15.11.2022 under Section 174-A, registered at Police Station Civil Line, Sirsa, District Sirsa, Haryana is quashed qua the petitioner along with all the consequential proceedings arising therefrom.

07.12.2023
mks

(N.S.SHEKHAWAT)
JUDGE

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