

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

CRM-M-55677-2023
Date of decision: 06.11.2023

Parwinder KaurPetitioner

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Pallavi Babbar, Advocate
for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of impugned order dated 07.12.2022 (Annexure P-2) vide which the petitioner was declared as proclaimed person in a complaint case bearing No. NACT/247/2020 dated 08.09.2020 under Sections 138 & 142 of the Negotiable Instruments Act read with Section 420 IPC titled as 'Malak Singh Vs. Parwinder Kaur.'

In this case, respondent No.2/complainant has entered into a compromise with the petitioner on 16.10.2023. The compromise deed is annexed herewith as Annexure P-4.

At this stage, Mr. Himanshu Joshi, Advocate puts in appearance on behalf of respondent No.2 and files his *vakalatnama* which is taken on record. Registry is directed to tag the same at an appropriate place in the file.

Learned counsel for respondent No.2 very fairly concedes that the matter between the parties has been compromised. The learned trial Court has recorded the statement of the complainant to the effect that the complainant wishes to withdraw the complaint filed under Sections 138 & 142 of the Negotiable Instruments Act read with Section 420 IPC.

Learned trial Court vide order dated 16.09.2023 (Annexure P-3) has ordered the dismissal of the complaint as withdrawn on the basis of the statement suffered by respondent No.2/complainant.

The question which arises for consideration of this Court is whether on account of withdrawal of the complaint under Sections 138 & 142 of the Negotiable Instruments Act read with Section 420 IPC on the basis of compromise, the impugned order dated 07.12.2022 deserves to be quashed?

The stand of learned counsel representing the petitioner is that the petitioner has been declared a proclaimed offender in contravention of the prescribed procedure under Section 82 of the Code of Criminal Procedure. The petitioner was never served before the proclamation was issued under Section 82 Cr.P.C. Both the parties have settled the matter amicably which has resulted in withdrawal of the complaint under Sections 138 & 142 of the Negotiable Instruments Act read with Section 420 IPC. In the factual backdrop of this case, undisputedly, once the substantive offence already stands settled between the petitioner and respondent No.2, the impugned order dated 07.12.2022 would be of no consequence.

Reliance in this regard has been placed upon various

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pronouncements on the issue involved in the present case. In **CRM-M43813-2018, 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**, the Coordinate Benches of this Court in identical circumstances, has held that since the main petition filed under Section 138 of the Negotiable Instruments Act stands withdrawn in view of an amicable settlement between the parties, therefore, the impugned order dated 07.12.2022 under Section 82 of the Cr.P.C. would be of no use.

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

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society at large. Therefore, the law prescribes punishment, severe punishments and the extreme punishments, including death penalty for criminal acts.”

Learned counsel representing the State has not been able to controvert the aforesaid facts and the position of law as laid down in the aforesaid judgment.

This Court, while examining the facts and circumstances of the present case, is of the considered opinion that the view taken by the Coordinate Benches of this Court in consonance with law. Once the substantive offence has been settled through compromise between the petitioner and respondent No.2, the impugned order dated 07.12.2022 passed under Section 82 of Cr.P.C. would not sustain either.

Accordingly the present petition is allowed. The impugned order dated 07.12.2022 (Annexure P-2) along with all consequential proceedings arising therefrom, is hereby quashed *qua* the petitioner.

(HARPREET SINGH BRAR)
JUDGE

06.11.2023
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No