

CRM-M-62446-2023
Date of decision: 12.12.2023

Ram ChanderPetitioner

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. D.S. Virk, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of FIR No.0737 dated 28.08.2022 under Section 174-A of IPC registered at Police Station Civil Line Sirsa, Sirsa (Annexure P-5) and all subsequent proceedings arising therefrom.

2. Brief facts of the case are that on 19.03.2019, the respondent No.2 filed complaint under Section 138 of the Negotiable Instruments Act, 1881 (in short 'the Act') against the petitioner before the learned Judicial Magistrate, Sirsa. It is further alleged that the petitioner had shifted to Mohali, SAS Nagar in the year 2018 and set up a unit of installation of Aluminium Doors and Windows at Kurali, Punjab and since then he is residing at Mohali and the same fact was known to the complainant/respondent No.2 as he himself had mentioned in his complaint about the address of the petitioner at Mohali but intentionally the service of legal notice as well as summons and proclamation were served at the village of the petitioner which he had left in the year 2018

for his aforesaid work opportunity at Mohali. Further, when the petitioner did not appear before the trial Court, as he was in Mohali, the trial Court has initiated P.O. proceedings against him by observing that he is concealing himself and avoiding his arrest and ultimately declared him proclaimed person 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 the petitioner was never served with the legal notice as well as summons and proclamation and the petitioner does not have any intention of not appearing before the trial Court. Learned counsel appearing for the petitioner submits that legal notice, summons and proclamation issued to the petitioner were never served as he was residing at Mohali and the summons were issued at the address of his village and, therefore, the finding of the trial Court that the petitioner is intentionally evading his arrest, is erroneous. Ultimately, vide order dated 05.08.2022 (Annexure P-4), the petitioner has 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 30.10.2023 (Annexure P-6) passed by the learned Judicial Magistrate 1st Class, Sirsa in which *inter alia* stated that complainant has made a statement in writing in this Court that accused has paid the entire

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cheque amount along with compensation 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.0737 dated 28.08.2022 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. Notice of motion.

10. Ms. Geeta Sharma, DAG, Haryana who is present in Court, accepts notice on behalf of respondent No.1-State has not been able to controvert the aforesaid facts and the position of law as laid down in the aforesaid judgment.

11. 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

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between the petitioner and respondent No.2, the proceedings of FIR No.0737 dated 28.08.2022 under Section 174-A of IPC would not sustain either.

12. Accordingly the present petition is allowed. The proceedings of FIR No.0737 dated 28.08.2022 under Section 174-A of IPC registered at Police Station Civil Line Sirsa, Sirsa (Annexure P-5) 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, Sirsa, for wasting precious time of the Court.

(HARPREET SINGH BRAR)
JUDGE

12.12.2023
Neha

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