

Date of Decision : April 03, 2024

Versus

“Challenge is to the order dated 15.12.2022 passed by the JMIC, Rupnagar whereby the petitioner has been declared as Proclaimed Person in the proceedings initiated by the complainant/ respondent qua offence punishable under Section 138 of the Negotiable Instruments Act, 1881 against the petitioner.

Present petition has been filed on the ground that the parties have now compromised the matter whereby the complainant/respondent No.2 has agreed to compound the principal offence of the petitioner under Section 138 of the N.I. Act.

Mr. Ashir Gulati, Advocate appears on behalf of respondent No.2 and admits the factum of there being a compromise between the parties.

Issue notice of motion returnable for 13.03.2024.

Mr. Tarun Aggarwal, Sr. DAG, Punjab appears and accepts notice on behalf of respondent No.1/State.

The parties are granted liberty to appear before the Trial Court on or before 29.01.2024.

In the meantime, operation of the impugned order dated 15.12.2022 shall remain stayed.”

4. Pursuant thereto the complainant appeared before the Judicial Magistrate-1st Class and got recorded his statement which reads as under:-

“Stated that I had received the cheque amount from the accused. As such, I do not want to proceed against the accused in the present complaint. Therefore, the same may kindly be dismissed as withdrawn. I have no objection if the accused is discharged in this complaint case.”

5. Resultantly, in view of the statement of complainant, the Judicial Magistrate 1st Class dismissed the complaint as withdrawn being compromised and the accused have been discharged.

6. Counsels are *ad idem* that the complaint now stands settled and withdrawn. They thus submit that the impugned order declaring the

petitioners as proclaimed person cannot be allowed to survive as the continuation thereof shall amount to abuse of process of law.

7. The issue whether the order declaring the proclaimed person can be allowed to continue after the principle proceedings stand withdrawn/settled is no more *res integra* and stands settled by the Co-ordinate Bench of this Court in **CRM-M-43813-2018** titled as **“Baldev Chand Bansal Vs. State of Haryana and another”** vide order dated 29th of Janaury, 2019, which held as under:

“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. Same is the view of another Co-ordinate Bench in the **“Ashok Madaan vs. State of Haryana and another”** reported as **2020 (4) RCR (Criminal) 87**, wherein it has been held that:

“No doubt, the learned counsel for the respondent has vehemently argued that the offence under Section 174-A I.P.C. is independent of the main case, therefore, merely because the main case has been dismissed for want of prosecution, the present petition cannot be allowed, however, keeping in view the fact that the present FIR was registered only on account of absence from the proceedings in the main case which had been subsequently regularised by the court while granting bail to the petitioner, the default stood condoned. In such circumstances, continuation of proceedings under Section 174A I.P.C. shall be abuse of the process of court.

7. Accordingly, the petition is allowed. FIR No. 446 dated 21.08.2017, registered under Section 174A I.P.C. at Police Station Kotwali, District Faridabad, as well as consequential proceedings shall stand quashed.”

9. Keeping in view the facts and circumstances of the present case and in view of the principles settled by this Court, the present petition is allowed. Order dated 15.12.2022 passed by JMIC, Rupnagar whereby petitioners were declared proclaimed person in complaint No. NACT/118 of 2020 dated 02.06.2020 under Section 138

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of the Negotiable Instruments Act and all proceedings subsequent thereto, are hereby quashed qua the petitioners.

03.04.2024
spn

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned
Whether Reportable :

Yes
No