

2024.PHHC.101350



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

Sr. No.118

**CRM-M-25510-2024 (O&M)
Date of decision : 07.08.2024**

Gurnam Singh

..... Petitioner

VERSUS

State of Punjab and another

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Sparsh Chhibber, Advocate, for the petitioner.

Mr. R.S. Thind, DAG, Punjab.

KIRTI SINGH, J. (Oral)

1. By way of the present petition filed under Section 482 Cr.P.C. prayer is for quashing of the FIR No.0099 dated 16.05.2022, under Section 174-A IPC, registered at Police Station City Rajpura and all subsequent proceedings arising therefrom.

2. Brief facts of the case are that the complainant had filed a criminal complaint, under Section 138 of the Negotiable Instruments Act, 1881 (for short "NI Act"), against the petitioner alleging that the father of the petitioner had availed a loan and for repayment the petitioner had issued a cheque amounting to Rs.3,80,000/- which was dis-honoured and returned by the Bank along with return memo and ultimately, the complainant filed the present complaint.

3. Thereafter, due to non appearance on various dates the petitioner was declared proclaimed offender vide order dated 06.07.2019 (Annexure P2) and the FIR in question was registered.

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4. Learned counsel for the petitioner submits that the parties have settled the dispute and the above stated complaint under Section 138 of NI Act stands withdrawn vide order dated 11.02.2023. He further submits that once the main case has been settled and withdrawn, it would be in the interest of justice that the FIR in question may be quashed.

5. Reliance has been placed upon the decision rendered by the Co-ordinate Bench of this Court in “***Baldev Chand Bansal vs. State of Haryana and another***” CRM-M-43813-2018 and “***Jagdeep Virk vs. State of Haryana and another***”, CRM-M-29251-2018.

6. Notice of motion to the official respondent(s).

7. At the asking of the Court, Mr. R.S. Thind, DAG, Punjab, accepts notice on behalf of the official respondent(s) and waives service. He has opposed the present petition and has submitted that the FIR has been correctly registered.

8. This Court has heard the learned counsel for the petitioner and the learned State counsel and has perused the paper-book.

9. From the above-said facts and circumstances, it is apparent that the present FIR was registered in view of the fact that the petitioner was declared as a proclaimed person in the proceeding under Section 138 of the Act of 1881. The impugned complaint under Section 138 of the Act of 1881 itself has been withdrawn.

10. A Co-ordinate Bench of 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 filed under Section 174-A of the Indian Penal Code

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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.*

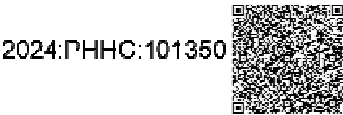
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In view of the same, I find merit in the present petition and accordingly, present petition is allowed and the impugned order dated 24.10.2016 passed by Judicial Magistrate, 1st Class, Panchkula as well as FIR No.64 dated 15.02.2017 registered under Section 174-A of the Indian Penal Code at Police Station Sector-5, Panchkula and all other subsequent proceedings arising thereof, are hereby quashed.”

11. A perusal of the above judgment would show that in a similar case where the FIR had been registered under Section 174-A IPC in view of the order passed in proceedings under Section 138 of the Act, while declaring the petitioner therein as proclaimed offender, a Co-ordinate Bench after relying upon various judgments observed that once the main petition under Section 138 of the Act stands withdrawn in view of an amicable



settlement between the parties, the continuation of proceedings under Section 174-A IPC is nothing but an abuse of the process of law. The said aspect was one of the main consideration for allowing the petition and setting aside the order declaring the petitioner therein as proclaimed person as well as quashing of the FIR under Section 174-A IPC.

12. In the present case the proceedings under Section 138 NI Act have culminated in a settlement with the withdrawal of the complaint under Section 138 NI Act.

13. In view of the above, the present petition is allowed and the FIR No.0099, dated 16.05.2022, registered under Section 174-A of IPC at Police Station City Rajpura, District Patiala (Annexure P-1) which was registered in consequent to the order dated 06.07.2019 (Annexure P-2) passed by learned Judicial Magistrate, 1st Class, Rajpura, declaring the petitioner as proclaimed offender in a complaint case under Section 138 Negotiable Instruments Act, 1881 is hereby quashed, ***subject to the cost of Rs.10,000/- to be deposited in Poor Patient Fund, PGIMER, Chandigarh.***

Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

07.08.2024
Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No