

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

277

CRM M-29573 of 2023
Date of Decision: 03.04.2024

Jasvir Bhatti ...Petitioner
Vs.
State of Punjab and another ...Respondents

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

Present : Mr. K. S. Lakhanpal, Advocate, for the petitioner.
Mr. M.S. Bajwa, DAG, Punjab.
Mr. Anantdeep Singh, Advocate, for respondent No. 2.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 482 Cr.P.C., with a prayer to quash the order dated 06.11.2019 passed by the Chief Judicial Magistrate, Fazilka (Annexure P-1), in complaint bearing No. NACT 276/2017 titled as **“Parveen Marry Vs. Jasveer Bhatti”**, under Section 138 of the Negotiable Instruments Act 1881 (hereinafter to be referred as '**the Act**'), whereby, the petitioner was declared to be a *“proclaimed person”*.
2. Learned counsel for the petitioner contends that respondent No. 2 had filed a criminal complaint under Section 138 of the Act (Annexure P-2) against the petitioner regarding the dishonour

of the cheque bearing No. 243506 dated 17.01.2017 amounting to Rs. 1,00,000/- drawn on Canara Bank, Cantonment Branch, Ambala. In fact, the petitioner was not aware of the proceedings against him and never received any summons/warrants from the Court. Ultimately, vide the impugned order dated 06.11.2019, the petitioner was declared as a proclaimed person in the present case, without following the due process of law. Thereafter, the warrants of attachment of the property of the accused was issued and the police started raiding the house of the petitioner. At that stage, the petitioner came to know that he had been declared as a proclaimed person in the present case. Thereafter, the petitioner immediately approached the respondent and the matter was compromised between the parties for a sum of Rs. 1,00,000/-. Even, a compromise deed dated 20.02.2023 (Annexure P-3) was executed between the parties and it clearly shows that the entire payment was made by the petitioner to the respondent and the respondent/complainant did not want to continue the criminal complaint filed by him. Learned counsel for the petitioner further contends that since the main case, i.e., complaint (Annexure P-2) has been compromised between the parties, the continuation of the proceedings in pursuance of the impugned order dated 06.11.2019 (Annexure P-1) would be an abuse of the process of the law.

3. On the other hand, learned counsel appearing on behalf of the respondent/complainant also submits that during the pendency

of the complaint under Section 138 of the Act, the matter has been compromised between the parties and as per the compromise (Annexure P-3), the respondent had received the entire amount from the present petitioner. He further submits that the respondent will have no objection in case the petitioner is acquitted in the present case as the matter has been amicably resolved between the parties.

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

5. 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 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.”

6. 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 a 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 considerations for allowing the petition and setting aside the order declaring the petitioner therein as a proclaimed person as well as quashing of the FIR under Section 174-A IPC.

7. Another co-ordinate Bench of this Court in a case titled as **“Ashok Madan vs. State of Haryana and another”** reported as **2020(4) RCR (Criminal) 87** has also held as under:-

“No doubt, the learned counsel for the respondent has vehemently argued that the offence under Section 174A 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.”

8. In the present case also, the matter has already been compromised between the parties. Consequently, the continuation of the proceedings in pursuance of the impugned order dated 06.11.2019

(Annexure P-1) would be an abuse of the process of the law. Similar observations have been made by this Court in the matter of “Anil Kumar Versus Jitender Kumar and another, CRM-M- 5878-2022 decided on 06.04.2022”, “Anil Kumar Versus Jitender Kumar and another, CRM-M-5755-2022 decided on 06.04.2022” and “Varinder Kumar @ Virender Kumar Versus State of Haryana and another, CRM-M-42551- 2021 decided on 19.04.2022”.

9. In view of the above, the present petition is allowed and impugned order dated 06.11.2019 (Annexure P-1) passed by the Chief Judicial Magistrate, Fazilka alongwith all subsequent proceedings arising therefrom is hereby ordered to be quashed.

03.04.2024

(N.S.SHEKHAWAT)

amit rana

JUDGE

Whether reasoned/speaking

:

Yes/No

Whether reportable

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Yes/No