

2024:PHHC:015807

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

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**CRM-M-54841-2023 (O&M)
DATE OF DECISION : 01.02.2024**

**M/S NEW WORLD OVERSEAS EDUCATION AND ANR
... PETITIONERS**

Versus

STATE OF U.T. CHANDIGARH AND ANR ... RESPONDENTS

CORAM : HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Ramandeep Singh Gill, Advocate and
Mr. Jatain Bansal Kotshamir, Advocate for the petitioner(s).

Mr. Ashir Gulati, Advocat for respondent No. 2.

SANDEEP MOUDGIL, J.(ORAL)

This is a petition under Section 482 of Cr.P.C., for quashing the order dated 04.10.2022, whereby the petitioner has been declared proclaimed offender in complaint No. NACT/7983 of 2020 dated 15.12.2020 under Section 138 of the Negotiable Instruments Act passed by JMIC, 1st Class, Chandigarh (Annexure P-1) titled as 'Ravi Jagwani vs. M/s. New World Overseas Education Consultants Pvt. Ltd.'

Learned counsel for the petitioner states that the main complaint stands withdrawn by the complainant, in view of the compromise affected between the parties vide order dated 28.09.2023. Since the main complaint has been dismissed as withdraw, as is evident from the perusal of aforesaid order passed by Judicial Magistrate First Class, Chandigarh and the offence between the petitioner and complainant is personal in nature not against the society at large, who

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have resolved their dispute, no fruitful purpose would be served by continuing the proceedings.

Heard learned counsel for the parties.

Reliance can be placed upon the orders dated 20.07.2022 and 24.08.2022 respectively, passed by a coordinate Bench of this Court in CRM-M-46062-2017, titled as ***“Jatin Dhawan and another versus State of Haryana and another”*** and CRMM-12534-2022, titled as ***“Krishan Kumar versus State of Haryana and another”***, respectively wherein it has been held that once the main case is dismissed as withdrawn, the continuation of proceedings under Section 174-A IPC shall be an abuse of process of law. Further, reliance can be placed upon the orders of this Court dated 12.12.2022 and 13.12.2022 passed in CRM-M-55634-2022 titled as ***“Jinder Singh Vs. State of Punjab and another”*** and CRM-M-45051-2022 titled as ***“Hari Singh Meena Vs. State of Haryana”***, respectively in this regard. 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 174-A I.P.C. Shall be abuse of the process of court. 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.”

A perusal of the relevant extract of the above judgment would show that where the main case was dismissed for want of prosecution, it was observed that the continuation of any proceedings arising therefrom shall be an abuse of the process of Court.

In the present case the complaint under Section 138 of the Act of 1881 has been dismissed as withdrawn vide order dated 28.09.2023. Once the impugned complaint has been dismissed as withdrawn on the basis of compromise, then the continuance of the proceedings arising from the complaint would be an abuse of the process of Court. Therefore, keeping in view the above-said facts and circumstances, the present petition is allowed and the impugned order dated 04.10.2022 with all subsequent proceedings arising therefrom, are hereby quashed qua the petitioner.

(SANDEEP MOUDGIL)
JUDGE

01st February, 2024
anuradha

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>