



CRM-M-58808-2022 (O&M)

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

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CRM-M-58808-2022 (O&M)

Date of decision: 06.08.2024

Sanjeev Kumar

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present:- Mr. Rakshak Gupta, Advocate for the petitioner.

Mr. Brijesh Sharma, AAG, Haryana.

KIRTI SINGH, J.(Oral)

The present petition has been filed for quashing the order dated 21.09.2022 (Annexure P-2) passed by the learned JMIC, Fatehabad, vide which the petitioner has been declared proclaimed offender and FIR bearing No.579 dated 27.10.2022 (Annexure P-4) under Section 174-A IPC, Police Station City Fatehabad, District Fatehabad.

2. Brief facts of the case are that respondent No.2 had filed a criminal complaint, under Section 138 of the Negotiable Instruments Act, 1881 (for short "NI Act"), against the petitioner alleging that the petitioner had availed a loan of Rs.1,25,000/- and for repayment the petitioner had issued a cheque amounting to Rs.1,25,000/- which was returned by the Bank along with a note having the remarks 'funds insufficient'. Pursuant thereto, the respondent No.2 had sent a legal notice dated 23.01.2018 and ultimately filed the present complaint.



3. Thereafter, due to non appearance on various dates the petitioner was declared proclaimed offender vide order dated 21.09.2022 and the FIR in question was registered.

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submits that the parties have settled the dispute and the above stated complaint under Section 138 of NI Act stands withdrawn vide order dated 04.11.2022. He further submits that once the main case has been settled and withdrawn, it would be in the interest of justice that the FIR in question may be quashed.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. Learned State counsel has opposed the present petition and has submitted that the FIR has been correctly registered.

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

8. 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.

9. 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.”

10. 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.

11. 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.

12. In view of the above, the present petition is allowed and the FIR No.579, dated 27.10.2022 registered under Section 174-A of IPC at Police Station City Fatehabad, District Fatehabad (Annexure P-4) which was registered in consequent to the order dated 21.09.2022 (Annexure P-2) passed by learned Judicial Magistrate, 1st Class, Fatehabad, declaring the petitioner as proclaimed person 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.***

(KIRTI SINGH)
JUDGE

06.08.2024
Kapil

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