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CRM-M-17377-2019 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
(274-3)

CRM-M-17377-2019 (O & M)
Date of decision:06.11.2025

Sanjay Gambhir

..... Petitioner

V/s

State of Haryana and anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Gautam Dutt, Sr. Advocate,
with Mr. Amitoj Singh Sidhu, Advocate,
for the petitioner.

Mr. Vipul Sherwal, AAG, Haryana.

Mr. Ram Bilas Gupta, Advocate,
For respondent No.2.

JASJIT SINGH BEDI, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of the impugned order dated 25.03.2019 (Annexure P-1) passed by the Additional Sessions Judge, Faridabad in CRA-99 dated 29.04.2014 titled as 'Sanjay Gambhir versus Mehar Chand since deceased (Now represented by Subhash son of Mehar Chand)' arising out of complaint No.1151 of 19.12.2007/22.04.2013 under Section 138 N.I. Act, Police Station Central Faridabad whereby the petitioner has been declared a proclaimed person as well as all subsequent proceedings arising therefrom.

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2. The brief facts of the case are that the complainant-Mehar Chand alongwith his relatives had sold total 22 kanal 10 marlas of land in favour of the accused vide a registered sale deed No.20172 dated 10.03.2006 and in respect of the share of the complainant, accused issued a cheque bearing No.657036 dated 30.04.2006 for a sum of Rs.2,35,97,500/- drawn on Indian Overseas Bank, New Rajender Nagar, New Delhi. The said cheque was dishonoured and consequently, a complaint under Section 138 of N.I. Act was filed by the complainant. In the said complaint, the parties had arrived at a settlement. Pursuant thereto, the accused issued another cheque bearing No.863532 dated 30.04.2007 for a sum of Rs.2,35,97,500/- Drawn on Indian Overseas Bank, New Rajender Nagar, New Delhi in favour of the complainant. On presentation, the said cheque was dishonoured with the remarks 'insufficient funds' vide a bank memo dated 08.09.2007. On assurance of the accused, the complainant presented the same cheque once again for encashment but it was again dishonoured due to 'insufficient funds' vide bank memo dated 25.10.2007. A legal notice was served upon the accused to make the aforesaid payment in the stipulated period of 15 days, leading to initiation of proceedings under Section 138 of the Negotiable Instruments Act, 1881.

3. In the complaint under Section 138 of the Negotiable Instruments Act, 1881 filed by the complainant/respondent, the accused No.2/petitioner-Sanjay Gambhir being the authorized signatory of accused No.1-DD Merchant Bankers Limited, was summoned to face trial. The



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evidence was led and ultimately, the accused/petitioner was held guilty and accordingly, convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and was sentenced to undergo rigorous imprisonment for a period of one year and to pay a compensation amounting to Rs.2,75,00,000/- to the complainant-respondent within one month from passing of the order and in default of payment of the said compensation, to further undergo SI for a period of 03 months.

4. Aggrieved against the said judgment of conviction and order of sentence, the accused No.2/appellant-Sanjay Gambhir (the present petitioner) and the accused No.1/D.D. Merchant Bankers Limited through its authorized representative Shri Tarun Kumar preferred two separate appeals bearing Nos. CRA-99-2017 and in CRA-98-2014 before the Additional Sessions Judge, Fardiyabad which came to be dismissed vide a common judgment dated 25.03.2019. As the accused No.2/appellant-Sanjay Gambhir (the present petitioner) failed to appear before the Appellate Court, he was declared a proclaimed person vide a separate order dated 25.03.2019 (Annexure P-1).

5. The aforesaid order dated 25.03.2019 (Annexure P-1) is impugned in the present petition and sought to be quashed.

4. The learned Senior counsel for the petitioner submits that during the pendency of the proceeding pending before this Court, the parties have arrived at a compromise, pursuant to which, vide order of even date passed in the connected petition bearing No.CRR-953-2019 titled as



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“Sanjay Gambhir versus Mehar Chand”, the prayer for compounding of offence under Section 138 N.I. Act has been allowed and the accused-petitioner/Sanjay Gambhir has been acquitted. He, therefore, prays that the present petition ought to be allowed and the impugned order dated 25.03.2019 (Annexure P-1) is liable to be quashed.

5. The learned State counsel has opposed the present petition and has submitted that the impugned order has rightly been passed.

6. The learned counsel for the complainant-respondent No.2 contends that as the matter has been settled between the parties and the accused-petitioner has been acquitted in the complaint under Section 138 N.I. Act in terms of the order of even date passed in CRR-953-2019, he has no objection, if the prayer of the accused-petitioner is allowed and the impugned order (Annexure P-1) is set aside.

7. I have heard the learned counsel for the parties and perused the paper-book.

8. From the above-said facts and circumstances, it is apparent that the impugned order was passed during the pendency of the proceeding in the appeal filed against the judgment of conviction and order of sentence dated 26/31.03.2014 passed by the Judicial Magistrate Ist Class, Faridabad.

The offence under Section 138 N.I. Act stands compounded and the accused-petitioner has been acquitted vide order of the even date passed in the connected revision petition bearing No.CRR-953-2019 on the basis of a compromise/settlement arrived at between the parties.



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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.

xxx xxx xxx

*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 (CrI.) 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.*

xxx xxx xxx

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



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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 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 for quashing of the FIR under Section 174-A IPC.

11. 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



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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.”

12. 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 proceedings under Section 174-A IPC shall be an abuse of the process of court. A similar view has been expressed by this Court in “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”.

13. In the present case, the proceedings out of a judgment of conviction and order of sentence dated 26/31.03.2014 passed by the Judicial Magistrate Ist Class, Faridabad and the judgment dated 25.03.2019 passed by the Additional Sessions Judge, Faridabad, have culminated in a settlement in connected petition bearing No.CRR-953-2019 with the compounding of offence under Section 138 N.I. Act and acquittal of the

accused-petitioner.

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14. In view of the above, the present petition is allowed and subject to a deposit of Rs.50,000/- as costs with the Punjab State Legal Services Authority-Disaster Relief Fund, Account No.44426937384, IFSC Code:SBIN0014656, State Bank of India, Sector 68, SAS Nagar, the impugned order dated 25.03.2019 (Annexure P-1), passed by the Additional Sessions Judge, Faridabad in CRA-99 dated 29.042014 titled as ‘Sanjay Gambhir versus Mehar Chand since deceased (Now represented by Subhash son of Mehar Chand)’ and all other subsequent proceedings arising therefrom are hereby quashed qua the petitioner only.

15. The pending application(s), if any, shall stand disposed of accordingly.

(JASJIT SINGH BEDI)
JUDGE

November 06, 2025
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No