



CRM-M-27048-2024 (O&M)

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298 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-27048-2024 (O&M)
Date of decision: 22.01.2025

MUKESH VIJ

...PETITIONER

V/S

STATE OF PUNJAB AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sourabh Sheoran, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 118 dated 17.02.2023 (Annexure P-1) under Section 174-A of IPC registered at Police Station City Narnaul District Mahendergarh as well as consequential proceedings arising therefrom and also seeking quashing of order dated 16.11.2022 (Annexure P-2) passed by learned ACJM, Narnaul vide which the petitioner was declared proclaimed person in complaint under Section 138 of Negotiable Instruments Act.

2. Learned counsel for the petitioner *inter alia* contends that the complainant has filed a complaint against the petitioner under Section 138 of the Negotiable Instruments Act before the learned trial Court. Thereafter, the petitioner could not appear before the learned trial Court and therefore, he has been declared as proclaimed person vide order dated 16.11.2022 (Annexure P-2) passed by the learned trial Court and pursuant to the said order, the FIR (supra) was registered. Aggrieved by the FIR (supra), the petitioner has approached this Court by way of instant petition.



3. Learned counsel appearing for the petitioner submits that said FIR is liable to be set aside on the ground that the mandate of Section 82 Cr.P.C. has not been followed in its letter and spirit by the trial Court.

4. Per contra, learned State counsel supports the order passed by the learned trial Court by contending that the petitioner did not put in appearance before the trial Court intentionally and deliberately and, therefore, having left with no other option, proclamation was issued to secure his presence.

5. I have heard learned counsel for the parties and perused the record of the case with their able assistance and with the consent of parties, the matter is taken up for final disposal.

6. Learned counsel for the petitioner further submits that now matter has been compromised between the parties and the main dispute which was under Section 138 of NI Act, out of which, proceedings under Section 174-A of IPC have emerged, had already been concluded vide order dated 02.05.2023 (Annexure P-3) passed by the learned Additional Chief Judicial Magistrate, Narnaul, in which the complainant has stated that the matter has been compromised between the parties and now he does not want to proceed with the present complaint and the same was dismissed as withdrawn.

7. The question which arises for consideration of this Court is whether on account of withdrawal of the complaint under Section 138 of the NI Act, on the basis of compromise, the proceedings of FIR No.118 dated 17.02.2023 (Annexure P-1) under Section 174-A of IPC deserve to be quashed?

8. The stand of learned counsel representing the petitioner is that the parties have settled the matter amicably which has resulted in withdrawal of the complaint under Section 138 of the NI Act. In the factual backdrop of this case,



undisputedly, once the substantive offence already stands settled between the petitioner and the complainant, the proceedings under Section 174-A of IPC would be of no consequence.

9. Reliance in this regard has been placed upon the various pronouncements on the issue involved in the present case. In **CRM-M-43813-2018, Baldev Chand Bansal vs. State of Haryana and another, decided on 29.01.2019, Vikas Sharma vs. Gurpreet Singh Kohli and another, 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**, in identical circumstances, the Coordinate Benches of this Court have held that since the main petition filed under Sections 138/142 of the Act stands withdrawn in view of an amicable settlement between the parties, therefore, the proceedings under Section 174-A of IPC would not sustain either.

10. A Coordinate Bench of this Court in **Vikas Gupta vs. State of Haryana and others**, while quashing the FIR under Section 174-A of the IPC in CRM-M-19636-2018 decided on 01.08.2018 has observed the following:-

“The ultimate aim, objective and goal of a legal system is to reconcile the social conflicts. Law is required only to ensure that people do not have to fight with each other just to protect their right to property, right to life and liberty and other rights secured to them by the legal system. The civil disputes are the conflicts between two parties, having lesser overtones for the social order, social harmony or the society as such. Hence absolute freedom is given to the parties to settle their disputes by compromises, of course, coming with certain legal consequences as well. However, the criminal disputes do not necessarily restrict themselves to only two parties to the dispute in terms of their scope, consequences and effect. The criminal acts tend to cast their effect and



consequences even upon the society at large. Therefore, the law prescribes punishment, severe punishments and the extreme punishments, including death penalty for criminal acts.”

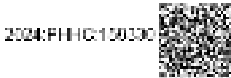
11. Moreover, the drill of Section 195 Cr.P.C. has not been followed in the present case. A co-ordinate bench of this Court in ‘**Pardeep Kumar vs. State of Punjab and another**’ CRM-M No.41656 of 2023 decided on 23.08.2023, speaking through Justice Arun Monga made the following observations:

"Invoking criminal liability for the offence under section 174A of IPC:

xxx xxx xxx xvii. Once the Court decides to proceed against the petitioner for an offence under Section 174A of the IPC, it is imperative to institute a formal written complaint in the competent jurisdictional court. This imperative arises from the prevailing provision of section 195 of the Code of Criminal Procedure, 1973 which mandates that no Court shall take cognizance of any offence punishable under Sections 172 to 188 (both inclusive) of the Indian Penal Code except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate."

12. This Court, while examining the facts and circumstances of the present case, is *ad idem* with the view taken by the Co-ordinate Benches of this Court that once the substantive offence has been settled through compromise between the petitioner and the complainant, the proceedings of FIR No.118 dated 17.02.2023 under Section 174-A of IPC would not sustain either.

13. Accordingly the present petition is allowed. The proceedings of FIR No.118 dated 17.02.2023 (Annexure P-1) under Section 174-A of IPC registered at Police Station Narnaul, District Mahendergarh and the order dated 16.11.2022 (Annexure P-2) vide which the petitioner was declared as



proclaimed person along with all consequential proceedings arising therefrom,
are hereby quashed qua the petitioner.

January 22, 2025
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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|------|---------------------------|--------|
| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |