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

CRM-M-830-2025

Date of decision: 13.01.2025

SURESH KUMAR

...PETITIONER

VERSUS

STATE OF HARYANA AND ANR.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Krishan Kanha, Advocate for the petitioner.

Mr. Kanwar Sanjiv Kumar, DAG, Haryana.

Mr. Kshitiz Goel, Advocate
for respondent No.2.

SANJAY VASHISTH, J. (ORAL)

The present petition has been filed by the petitioner under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, for quashing of the FIR bearing No.662 dated 18.08.2023 (Annexure P-1), under Section 174-A of the IPC, 1860, registered at Police Station Civil Line, Sirsa in pursuance to the order dated 08.08.2023 (Annexure P-6) passed in the complaint filed under Section 138 of Negotiable Instruments Act, 1881 bearing no. NACT-1357-2022 titled as 'Raja Ram Versus Suresh Kumar' and all subsequent proceedings arising therefrom.

Learned counsel for the petitioner submits that the disputed cheque amount was Rs. 50,000/- of which Rs.40,000/- has already been paid and the offence has been compounded. In result thereto, even the complaint has been withdrawn by the complainant. However, during the proceedings in complaint under Section 138 of Negotiable Instruments Act, the petitioner was declared as

proclaimed person due to his absence for a period of more than one year. He



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further submits that number of times the orders have been passed by this Court wherein it has been observed that once the main dispute is over, no purpose would be achieved by keeping the proceedings under Section 174-A IPC pending against the accused.

Notice of motion.

On advance notice, Mr. Kanwar Sanjiv Kumar, DAG, Haryana has put in appearance and accepts notice on behalf of the respondent-State.

Mr. Kshitiz Goel, Advocate has put in appearance on behalf of respondent No.2 and filed Vakalatnama, which is taken on record. He admits the factual assertion made by the petitioner and states that complete disputed amount as stated by the petitioner has been received by him. He also states that complaint under Section 138 of the Negotiable Instruments Act has also been even withdrawn.

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

This Court has already examined similar situation in the case of ***"Microqual Techno Limited and Others Versus State of Haryana and another, 2015 (32) RCR (Criminal) 790; Law Finder DOC id; 737276***, paragraph no.5 of the judgment, quoted as under:-

"5. In the present case, petitioners are facing criminal proceedings qua commission of offence punishable under Section 174A IPC. It is the case of the petitioners that they had not received the summons qua the criminal complaint under Section 138 of the Act pending against them. The moment petitioners came to know about the same, they have paid the cheque amount in question to the complainant and they have been discharged in the complaint under Section 138 of the Act. During the course of arguments, learned counsel for the petitioners has shown the reports of the Process Server and a perusal of the same leads to



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the interference that the petitioners had, in fact, not received the summons qua the pendency of criminal complaint under Section 138 of the Act. Since in the main case, petitioners have been ordered to be discharged in view of compromise effected between the parties, continuation of criminal proceedings against the petitioners under Section 174 A IPC would be nothing but an abuse of process of law."

In view of the above, order dated 08.08.2023 (Annexure P-6) is set aside qua the petitioner to the extent of declaring him proclaimed person and all the consequential proceedings arising therefrom, subject to the cost of Rs.15,000/- (Rupees Fifteen Thousand Only). Thus, the present petition stands disposed of.

The said costs shall be deposited with the Senior Citizen's Home, Sirsa, being run in the name and style of "**Farmers and Rural Empowerment Society of Haryana (Fresh)**, # 15/1226, Gali No.2, Ward No.1, Near Chanan Ki Chabbi, Challargarh Patti, Sirsa, in its Bank Account after ascertaining the details from its President, namely, Sh. Raghbir Singh, Mobile Nos.8708050784 and 9991912063, within a period of one month from today, failing which the present order shall not come into force.

A copy of this order be sent to the concerned Court, for information and to ensure that the petitioner herein has paid and deposited the costs within stipulated time.

13.01.2025

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(SANJAY VASHISTH)
JUDGE

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