



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

249-1

CRM-M-18572-2022 (O&M)

Date of decision: 06.05.2026

Azad

...Petitioner(s)

VERSUS

State of Haryana and another

...Respondent(s)

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Ajay Kumar Dahiya, Advocate for the petitioner(s).

Mr. Onkar Singh Wahla, Sr. DAG Haryana.

VINOD S. BHARDWAJ, J. (Oral)

1. The instant petition has been filed under Section 482 Cr.P.C. for quashing/setting aside of the impugned order dated 03.10.2019 (Annexure P12) passed by the Court of Judicial Magistrate First Class, Gohana and all subsequent proceedings, whereby the petitioner has been declared as proclaimed person in case No. 93 of 2017 (Correct No.99), CIS No. 99/17 titled as 'Devender Vs. Azad' under Section 138 of the Negotiable Instrument Act, on the ground that the principal dispute has been compromised between the private parties and the said complaint already stands withdrawn, vide order dated 16.02.2023.

2. Learned counsel appearing on behalf of the petitioner contends that due to an inadvertence, complaint case No.93 of 2017 has been wrongly mentioned instead of No.99/2017. The order dated 03.10.2019 declaring the petitioner as a proclaimed person has although been rightly appended. He also filed an affidavit in this regard today in the Court and the same is taken

on record.

3. When the matter was taken up for consideration on 04.05.2022, learned counsel appearing on behalf of the petitioner submitted that the petitioner had been residing at Janakpuri, New Delhi for more than the last ten years. It was contended that despite the said fact, the complainant inadvertently mentioned the petitioner's old address pertaining to Gohana and also referred to an incorrect village in the complaint. Consequently, owing to the incorrect particulars having been furnished, the petitioner could not be properly served, which ultimately culminated in the passing of the order declaring him as a proclaimed person.

4. Learned counsel for the petitioner contends that the matter has already been compromised between the parties and the entire due amount has already been paid by the petitioner to the complainant. It is submitted that the complainant has also made a statement before the trial Court to the said effect and on his statement, the main complaint under Section 138 of the Negotiable Instruments Act, 1881 has been dismissed as withdrawn vide order dated 16.02.2023 passed by the Judicial Magistrate 1st Class, Gohana and he has also produced a copy of order dated 16.02.2023.

5. In support of his submissions, learned counsel for the petitioner has placed reliance on a judgment passed by co-ordinate Bench of this Court in the case of ***Hitesh H. Shah versus State of Haryana and another (CRM-M-12034-2022, decided on 13.07.2022)***, and submits that case of petitioner is identical on facts and law to that of the referred judgment.

6. It is clear that dispute between private parties regarding cheque amount has already been resolved, inasmuch as, main petition stands

withdrawn by the original complainant himself on 16.02.2023, as already noticed above.

7. In ***Baldev Chand Bansal v. State of Haryana and another (CRM-M-43813-2018, decided on 29.01.2019)***, a co-ordinate Bench of this Court 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 (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.

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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.”

8. A perusal of the above judgment would show that in a similar case where FIR was registered under Section 174-A IPC pursuant to an order passed by the Trial Court in proceedings under Section 138 of the Negotiable Instruments Act, 1881, while declaring 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, 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 FIR under Section 174-A IPC.

9. Another co-ordinate Bench of this Court in a case titled as ***Ashok Madan versus 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 174A 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.”

10. Reiterating the same principle, in case of **Hitesh H. Shah** (*supra*), continuation of proceedings under Section 174-A IPC were held to be abuse of the process of law, once main dispute between the parties has already ended.

11. Under these circumstances, once the very complaint case under Section 138 of the Negotiable Instruments Act, 1881, filed against the present petition stands withdrawn, on the basis of compromise, continuation of the proceedings under Section 174-A of IPC, 1860, is nothing but an abuse of process of law.

12. Accordingly, this petition is **allowed** and the order dated 03.10.2019 (Annexure P12) passed by the Court of Judicial Magistrate First Class, Gohana and all subsequent proceedings arising thereto along with all subsequent proceedings emanating therefrom, are quashed qua the petitioner herein.

(VINOD S. BHARDWAJ)
JUDGE

06.05.2026

Mangal Singh

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No