

Before Sanjay Vashisth, J.

SANJEEV KUMAR—*Petitioner*

versus

STATE OF HARYANA—*Respondent*

CRM-M No. 59270 of 2022

December 19, 2022

Negotiable Instruments Act, 1881—S.138—Complaint case under section 138 NI Act—Petitioner declared as proclaimed offende and FIR registered under Section 174-A—Main dispute settled via compromise—Once main petition stands withdrawn, continuation of proceedings under Section 174-A is nothing but an abuse of process of law—FIR and all subsequent proceedings quashed.

Held, that 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.

(Para 13)

Manav Bajaj, Advocate, *for the petitioner.*

Vikas Bhardwaj, AAG, Haryana, for respondent - State.

SANJAY VASHISTH, J.

(1) By way of present petition, petitioner – Sanjeev Kumar seeks quashing of FIR No. 0348, dated 17.02.2020, under Section 174-A IPC (Annexure P-1), registered at Police Station Ambala City, as well as all the consequential proceedings arising therefrom.

(2) Brief facts of the case are that Sanjay Bhatia had filed a complaint, bearing No. COMA/2269/2016, dated 23.11.2016, titled as “Sanjay Bhatia v. Sanjeev Kumar”, under Section 138 of the Negotiable Instruments Act, 1881, in the court of learned Judicial Magistrate Ist Class, Ambala, against the petitioner. Due to non-appearance of the petitioner in the said complaint case, he was declared as a proclaimed person, vide order dated 23.04.2018 (Annexure P-9), passed by learned Judicial Magistrate Ist Class, Ambala, and it was directed to register FIR under Section 174-A IPC against the present petitioner. Accordingly, aforementioned FIR was registered.

(3) Learned counsel for the petitioner refers to the statement of complainant Sanjay Bhatia, dated 09.06.2022 (Annexure P-11), made

before learned Judicial Magistrate Ist Class, Ambala, which reads as under:-

“Stated that I have entered into a settlement with accused Sanjeev in the present case in Daily Lok Adalat and I have no transaction remaining with the accused and that I have no objection if the file is deposited in office.”

(4) Learned counsel for the petitioner also refers to the order dated 09.06.2022 (Annexure P-10), passed by learned Judicial Magistrate Ist Class, Ambala, vide which by noticing the factum of settlement of dispute, said complaint was ordered to be dismissed as withdrawn being compromised in Daily Lok Adalat and accused (petitioner herein) was discharged. Order dated 09.06.2022 (Annexure P-10) says as under:-

“Present: Complainant in person with Sh. Khushi Ram Saini, Advocate.

File taken up again. Main case file received from record room. It be restored on its original number. Complainant Sanjiv Bhatia present before the Court and got recorded his statement that he has compromised the matter with the accused today in Daily Lok Adalat and now nothing is outstanding against the accused and therefore, he does not want to pursue the present complaint and the same may be dismissed as withdrawn being compromised in Daily Lok Adalat. Complainant is duly identified by his counsel. Heard. Keeping in view the statement made by the complainant, the complainant is permitted to withdraw the present complaint. Accordingly, the present complaint is hereby dismissed as withdrawn being compromised in Daily Lok Adalat. Accused is hereby discharged and be released from custody in this case forthwith. File be consigned to the record room after due compliance.

Pronounced:- 09.06.2022

Sd/-
(Arun Dabla)
Judicial Magistrate Ist Class,
Ambala (UID: (HR-0475))”

(5) Thus, learned counsel for the petitioner argues that in view of order dated 09.06.2022 (Annexure P-10), no purpose would be

achieved by continuing with the proceedings arising out of FIR No. 0348, dated 17.02.2020, under Section 174-A IPC (Annexure P-1), registered at Police Station Ambala City.

(6) 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.

(7) Notice of motion.

(8) On asking of the Court, Mr. Vikas Bhardwaj, Assistant Advocate General, Haryana, who is present in the Court, accepts notice on behalf of respondent-State. He submits that aforementioned FIR has rightly been registered against the petitioner in accordance with law, by following all the provisions of Cr.P.C., and same is required to come to a logical end. However, he does not dispute the fact that the very dispute out of which proceedings were ordered to be initiated against the petitioner, under Section 174-A IPC, stands finalised and the main complaint case No. COMA/2269/2016, dated 23.11.2016, under Section 138 of the Negotiable Instruments Act, 1881, has already been withdrawn on 09.06.2022.

I have heard learned counsel for the parties and have also gone through the case record available before me.

(9) It is clear that dispute between private parties regarding cheque amount has already been resolved, inasmuch as, main petition stands withdrawn by the complainant himself on 09.06.2022, as already noticed above.

(10) 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.”

(11) 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.

(12) Another co-ordinate Bench of this Court in a case titled as *Ashok Madan versus State of Haryana and another*¹, has also held as under:-

“No doubt, the learned counsel for the respondent has

¹ 2020 (4) R.C.R. (CrI.) 87

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.”

(13) 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.

(14) 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 FIR No. 0348, dated 17.02.2020, under Section 174-A IPC (Annexure P-1), registered at Police Station Ambala City, is nothing but an abuse of process of law. In this regard reliance can also be placed upon judgment rendered by this Court in the case of **Microqual Techno Limited and others versus State of Haryana and another**², which has also been followed in **Jitender Singh versus State of Haryana and another** (CRM-M-47891-2021, decided on 16.11.2021).

(15) Accordingly, this petition is allowed and FIR No. 0348, dated 17.02.2020, under Section 174-A IPC (Annexure P-1), registered at Police Station Ambala City, along with all subsequent proceedings emanating therefrom, are quashed qua the petitioner herein.

Dr. Payel Mehta

² 2015 (32) RCR (CrI.) 790