



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

**CRM-M-5518-2025
Date of Decision:03.02.2025**

Ajaib Singh

...Petitioner

Vs.

State of Punjab and Anr.

...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present: Mr. Ashutosh Sharma, Advocate
for the petitioner.

Mr. I.P.S Sabharwal, DAG, Punjab.

Mr.Jasvir Singh Dhaliwal, Advocate
for respondent No.2.

1. The petitioner has filed the present petition under Section 528 of B.N.S.S with a prayer to quash the impugned order dated 16.03.2024 (Annexure P-3), passed by the Court of Judicial Magistrate Ist Class, Mansa, whereby the petitioner has been declared as a proclaimed person and all subsequent proceedings arising therefrom.

2. Learned counsel for the petitioner contends that a complaint under Section 138 of the Negotiable Instruments Act (hereinafter referred to as the "Act") was filed against the petitioner on the basis of the complaint moved by respondent No.2, on account of dishonour of cheque bearing No.269001. After recording the preliminary evidence, vide order dated 07.01.2023 (Annexure P-2), the petitioner was ordered to be summoned under Section 138 of the "Act". After the summoning order, the summons/warrants were issued



for the service of present petitioner, however, the petitioner was not residing at the address mentioned in the summons/warrants and was never served. Ultimately, the Trial Court observed that the petitioner was evading the process of law and a proclamation under Section 82 Cr.P.C was ordered to be issued against him. Learned counsel further contends that the without following the mandatory provisions of Section 82 Cr.P.C, the petitioner has been declared as a proclaimed person, vide order dated 16.03.2024 (Annexure P-3). Learned counsel for the petitioner next contends that when the petitioner came to know about the pendency of the case, he approached the respondent No.2/complainant and a compromise deed (Annexure P-4) was executed between the parties. Ultimately, the complainant appeared before the Trial Court and had withdrawn the complaint being fully satisfied on 07.01.2025 before the Court of Judicial Magistrate Ist Class, Mansa. Learned counsel for the petitioner further contends that the main purpose of declaring the petitioner as proclaimed person was to ensure the presence of the petitioner before the Trial Court, where the complaint under Section 138 of the “Act” was pending. Since, the main complaint itself stands withdrawn vide order dated 07.01.2025 (Annexure P-5), no purpose will be served by keeping the proceedings arising out of impugned order dated 16.03.2024 (Annexure P-3) and the impugned order is liable to be quashed by this Court.

3. On the other hand, learned State counsel submits that the petitioner had intentionally evading the process of law and did not appear before the Trial Court. Learned State counsel further submits that the petitioner has not been able to point out any illegality in the impugned order passed by the Trial Court



and the petition deserves to be dismissed by this Court.

4. On the other hand, learned counsel appearing on behalf of respondent No.2/complainant submits that the main case has been settled between the parties and respondent No.2 has already appeared before the Trial Court and made a statement for withdrawal of the main complaint. Even vide order dated 07.01.2025, passed by the Court of Judicial Magistrate Ist Class, Mansa, the Trial Court has permitted the respondent No.2/complainant to withdraw the main complaint itself. He further contends that he has no objection, in case, impugned order dated 16.03.2024, passed by the Court of Judicial Magistrate Ist Class, Mansa and all subsequent proceedings are ordered to be quashed by this Court.

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

6. 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.

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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 (Crl.) 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.”

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

8. 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 proceedings in the main case which had been subsequently regularized 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.”

9. In the present case also, the main case has already been withdrawn by the complainant. Consequently, the continuation of the proceedings arising out of impugned order dated 16.03.2024 (Annexure P-3), passed by the Court of Judicial Magistrate Ist Class, Mansa would be an abuse of process of the Court. Similar observations have been made by this Court in the matter of **“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”** .

10. In view of the above, the present petition is allowed and the impugned order dated 16.03.2024 (Annexure P-3), passed by the Court of Judicial Magistrate Ist Class, Mansa alongwith all subsequent proceedings



arising therefrom are hereby ordered to be quashed.

(N.S.SHEKHAWAT)
JUDGE

03.02.2025

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