

FIR is liable to be set aside as 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 22.02.2024 (Annexure P-5) passed by the learned Judicial Magistrate Ist Class, Phul in which the complainant has stated that the matter has been compromised as accused-petitioner has paid the entire cheque amount and now he does not want to proceed with the present complaint and the same was dismissed as withdrawn.

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. However, he does not oppose the factum of compromise in view of the statement suffered by the complainant before the trial Court.

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. 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.108 dated 07.09.2019 (Annexure P-1) under Section 174-A of IPC deserve to be quashed?

7. 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.

8. 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 (Crl.) 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.

9. 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.”

10. 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."

11. 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.108 dated 07.09.2019 under Section 174-A of IPC would not sustain either.

12. Accordingly the present petition is allowed and FIR No.108 dated 07.09.2019 (Annexure P-1) under Section 174-A of IPC registered at Police Station Phul, District Bathinda along with all consequential proceedings arising therefrom, is hereby quashed qua the petitioner.

05.02.2025

Parveen kumar

**(HARPREET SINGH BRAR)
JUDGE**

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