

Microqual Techno Limited v. State Of Haryana , 2015 PLRonline 0015

PUNJAB AND HARYANA HIGH COURT

Sabina, J.

Microqual Techno Limited v. State Of Haryana

Crl. Misc. No. M-43210-2014

14.09.2015

IPC S. 174-A

Indian Penal Code, 1860 (XLV of 1860) Section 174-A - 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 - NIA S. 138.

Sabina, J.:— Petitioners have filed this petition under **Section 482 of the Code of Criminal Procedure, 1973** for quashing of FIR No. 391 dated 20.6.2014, under Section 174-A of the Indian Penal Code, 1860 ('IPC' for short), registered at Police Station Palam Vihar, Gurgaon (Annexure P-2) and all the subsequent proceedings arising therefrom including the order dated 10.3.2014 (Annexure P-1).

2. Learned counsel for the petitioners submits that no service was effected upon the petitioners and simply on the basis of presumption, it has been mentioned that service had been effected on the petitioners. Learned counsel also submits that a compromise has been arrived between the parties and compromise deed has been placed on record as Annexure P-5 and on the basis of the same, petitioners have been discharged. Learned counsel has further submitted that the petitioners were ready to join the Court proceedings and there was no intention on the part of the petitioners to remain absent or to avoid the Court proceedings.

3. Learned State counsel, on the other hand, has opposed the petition and has submitted that petitioners were liable to be proceeded criminally as they had deliberately not appeared before the Trial Court.

4. Learned counsel for respondent No. 2 has submitted that he has no objection if the criminal proceedings against the petitioners are ordered to be quashed as the parties have amicably settled their dispute. As per the compromise deed Annexure P-5, complainant has been paid the cheque amount in question and the complaint under Section 138 of the Negotiable Instruments Act, 1881 ('Act' for short) has been withdrawn and petitioners were

ordered to be discharged.

5. In the present case, petitioners are facing criminal proceedings qua commission of offence punishable under Section 174-A 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.

6. 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 the inference that the petitioners had, in fact, not received the summons qua the pendency of criminal complaint under Section 138 of the Act.

7. 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.

8. Accordingly, this petition is allowed. FIR No. 391 dated 20.6.2014, under Section 174-A IPC, registered at Police Station Palam Vihar, Gurgaon (Annexure P-2) and all the consequential proceedings, arising therefrom, including the order dated 10.3.2014 (Annexure P-1) are quashed.

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