

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

CRM-M No.16449 of 2018 (O&M)

Date of decision: 19.10.2019

Satish Kumar

....Petitioner

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Rahul Jindal, Advocate
for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

Mr. Saurabh Bajaj, Advocate
for respondent No.2.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for quashing of FIR No.278 dated 04.12.2016 registered under Section 174-A IPC at Police Station Kosli, District Rewari; charge-sheet dated 21.07.2017; orders dated 27.09.2016, 14.10.2016 and 07.11.2016 and all other subsequent proceedings arising therefrom.

On 21.04.2018, the following order was passed by this Court:-

“...Learned counsel for the petitioner submits that the trial Court on 27.09.2016 adjourned the case to 14.10.2016 for effecting publication, without giving 30 days notice and thereafter, on 14.10.2016, adjourned the case for 07.11.2016 with the observation that since the mandatory period of 30 days has not lapsed, the case is adjourned. Counsel for the petitioner further submits that the trial Court has not adopted the proper procedure as the notice should have been given for a period of clear 30

days from the date of publication.

Learned counsel for the petitioner has further submitted that even as per report of the Process Server (Annexure P-2), it has come on record that when Constable Jai Parkash went at the given address of accused Satish Kumar on 14.10.2016, there he met Raj Singh and Pawan, who informed that petitioner Satish Kumar is not residing at the said address for the last so many days and therefore, it is submitted that there was no proper service of notice in spite of the fact that it has come to the notice of the trial Court that the petitioner is not ordinarily residing at the given address and the trial Court has not made any effort to ask the complainant to supply the correct address of the petitioner.

Learned counsel for the petitioner has further argued that while passing the impugned order dated 07.11.2016 (Annexure P-4), the trial Court has not recorded its satisfaction that the petitioner has absconded from the Court proceedings and it has only recorded that it appears that the petitioner has absconded. This opinion of the trial Court does not amount to fulfilling the requirement of satisfaction of the Court. It is further submitted that the petitioner has already been acquitted in the main complaint filed under Section 138 of the Negotiable Instruments Act....”

Learned counsel for the petitioner has relied upon the decisions rendered by this Court in **“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** 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.

Counsel for the petitioner has further relied upon the judgment “**Anand Kumar Mohatta and another vs State(Govt. of NCT of Delhi) Department of Home and another**”, 2019(2) Apex Court Judgments (SC) 27, to submit that when the prosecution of a person is an abuse of process of law, the High Court in its inherent power can quash the proceedings against the accused.

Counsel for the State, on instructions from ASI Manoj Kumar, has submitted that the petitioner stands acquitted in the proceedings under Section 138 of the Negotiable Instruments Act.

Counsel for the petitioner has placed on record the certified copy of the judgment passed by the trial Court vide which the petitioner was discharged in the proceedings under Section 138 of the Negotiable Instruments Act vide judgment dated 22.03.2018 and the same is taken on record as 'Mark X'.

Counsel for the State has further argued that the trial is at the advanced stage.

Considering the submissions made by counsel for the petitioner and in view of the judgments **Vikas Sharma (supra)**, **Microqual Techno Limited and others (supra)** and **Rajneesh Khanna (supra)**, this Court is of the opinion that the continuation of the proceedings against the petitioner under Section 174-A IPC is nothing but misuse of the process of law.

Accordingly, this petition is allowed, the charge-sheet dated 21.07.2017 along with the orders dated 27.09.2016, 14.10.2016 and 07.11.2016 are set-aside and FIR No.278 dated 04.12.2016

registered under Section 174-A IPC at Police Station Kosli, District
Rewari and all other subsequent proceedings arising therefrom is
quashed.

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

19.10.2019
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No