

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-43522-2019

Date of decision: 16.10.2019

Omkar

... Petitioner

Vs.

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Arvind Bansal, Advocate
for the petitioner.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for quashing of the judgment dated 27.02.2019 passed by the Sessions Judge, to the extent of issuing directions that the trial Court will set the criminal law in motion by filing appropriate complaint against the accused-petitioner under Section 190 Cr.P.C.

Learned counsel for the petitioner submits that in fact, the petitioner was an accused in FIR No.98 dated 25.03.2015 under Sections 406, 420, 467, 468, 471, 120-B IPC, Police Station Kaithal City, District Kaithal and during pendency of said trial, the police registered another FIR No.196 dated 10.05.2016 under Section 174-A IPC, at Police Station Kaithal City, against the petitioner, without there being any order of the Court. It is further submitted that later, on the basis of compromise effected between the parties, aforesaid FIR No.98 was quashed by this Court vide order dated 22.10.2018 passed in CRM-M-28734-2018.

Learned counsel further submits that in the meantime, the

petitioner faced the full length trial in FIR No.196 and was convicted by the trial Court vide judgment of conviction dated 05.06.2018 and was sentenced to undergo R.I. for a period of one year, vide order of sentence dated 06.06.2018. The petitioner, thereafter, preferred an appeal before the lower appellate Court and vide judgment dated 27.02.2019, the lower appellate Court allowed the appeal and set aside the judgment of conviction dated 05.06.2018 passed by the trial Court, however, gave a direction to the trial Court to set the criminal law in motion by filing appropriate complaint against the accused.

Learned counsel for the petitioner has argued that once the lower appellate Court has allowed the appeal filed by the petitioner, against the judgment of conviction and order of sentence, on merits, by recording a finding that no proceedings were initiated by the trial Court to register an FIR under Section 174-A IPC, therefore, conviction of the petitioner is illegal and therefore, there was no occasion for the lower appellate Court to issue such direction to the trial Court to set the criminal law in motion by filing a complaint against the petitioner. It is further submitted that in pursuance to the said directions, the Court of Chief Judicial Magistrate, by taking the case on its own, had issued a direction to the Judicial Magistrate 1st Class, Kaithal to initiate the proceedings under Section 190 (1)(a) of the Code of Criminal Procedure, by taking the directions issued vide impugned order as a complaint. Thereafter, the trial Court has now initiated *de novo* proceedings against the petitioner.

Learned counsel has relied upon a judgment of this Court in **Rajneesh Khanna Vs. State of Haryana and another, 2017 (3) LAR 555**, in which, while quashing the FIR under Section 174-A IPC, arising out of a

complaint under Section 138 of N.I. Act, it was observed that since the main litigation between the accused and the complainant stands quashed, on the basis of a compromise, continuation of the criminal proceedings against an accused under Section 174-A IPC would amount to abuse of process of law. Similar view has been taken by this Court in **Vikas Sharma and Gurpreet Singh Kohli and another, 2017 (3) LCR 584** and **Microqual Techno Limited and others Vs. State of Haryana and another, 2015 (3) RCR (Crl.) 790**.

Notice of motion.

On asking of the Court, Mr. Vikramjit Singh, Addl. AG, Haryana accepts notice on behalf of the respondent-State and could not dispute the legal position that once the matter in FIR/complaint has been settled between the accused and the complainant and during pendency of which, the proceedings under Section 174-A IPC were initiated, the proceedings are liable to be quashed, as no purpose will be served to allow continuation of the proceedings under Section 174-A IPC, being misuse of process of law.

In view of the above, this petition is allowed and the order dated 27.02.2019 passed by the Sessions Judge, to the extent of issuance of direction to the trial Court to set the criminal law in motion by filing appropriate complaint against the accused-petitioner and the subsequent proceedings initiated by the Chief Judicial Magistrate/Judicial Magistrate 1st Class, Kaithal, in pursuance thereof, are quashed.

[ARVIND SINGH SANGWAN]
JUDGE

16.10.2019
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No