

115.

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

CRM-39058-2021 IN/AND

CRM-M-3489-2020

Date of Decision: 24.11.2021

DEVINDER SHARMA

.... Petitioner

Versus

STATE OF PUNJAB

.... Respondent

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Gurinder Singh Dhillon, Advocate, for the petitioner.

Mr. A.S.Gill, Senior DAG, Punjab.

JAISHREE THAKUR.J

CRM-39058-2021

Prayer in this application filed under Section 482 Cr.P.C. is for preponing the main petition to an early date, which is otherwise listed for hearing on 09.12.2021.

For the reasons mentioned in the application, same is allowed and the main petition is preponed and is taken up for hearing today itself.

CRM-M-3489-2020

The instant petition has been filed under Section 482 Cr.P.C. for quashing FIR No.16, dated 07.03.2011, registered under Section 174A IPC at Police Station Mehatpur, District Jalandhar along with all subsequent proceedings emanating therefrom.

Counsel for the petitioner herein would contend that an FIR No.70, dated 15.06.2010 came to be registered at Police Station Mehatpur,

under Sections 384, 388, 182, 120-B IPC in which proceedings, the petitioner was summoned as an accused. He was allowed bail, however, he remained in custody in Tihar Jail in connection with another FIR No.433 of 1991 registered at Police Station RK Puram, New Delhi on account of surety of the petitioner having been withdrawn under the said FIR (No.433 of 2019). As the petitioner was in judicial custody, he could not put in appearance on the date fixed before the trial Court and as such, he was marked absent and ultimately declared as a proclaimed offender by the Court of Shri Tarantaran Singh Bindra (PCS) SDJM, Nakodar. It is argued that his non-appearance before the trial Court was wholly inadvertent and was not deliberate. Consequently, the order dated 25.02.2011 declaring the petitioner to be a proclaimed offender would not be sustainable. Pursuant to having been declared as a proclaimed offender, the present FIR under Section 174-A IPC has been registered at Police Station Mehatpur.

Learned counsel would contend that during the pendency of these proceedings, the original FIR No.70 was quashed in CRM-M-18146-2011 titled as *Devinder Sharma and another Versus State of Punjab and another*, on dated 05.07.2011 on the basis of a compromise arrived at between the parties and as such continuation of criminal proceedings against the petitioner under Section 174-A IPC would be nothing but an abuse of process of law. In this regard, counsel would rely upon judgment rendered by this Court in the case of *Microqual Techno Limited and others Versus*

State of Haryana and another-2015(32) RCR (Criminal) 790 which has also been followed in *CRM-M-47891-2021* titled as *Jitender Singh Versus State of Haryana and another*, decided on 16.11.2021.

Learned counsel appearing on behalf of the respondent-State is not in a position to dispute the fact that the very FIR out of which proceedings have been initiated under Section 174-A IPC stands quashed in CRM-M-18146-2011.

I have heard learned counsel for the parties and have also gone through the proceedings of the case.

It is not in dispute that the instant FIR has arisen out of FIR No.70, dated 15.06.2010 (*supra*), which has been quashed on the basis of compromise vide order dated 05.07.2011 passed in CRM-M-18146-2011. Under these circumstances, once the very FIR has been quashed on the basis of compromise, continuation of the instant FIR under Section 174-A of IPC is nothing but an abuse of process of law. In this regard reliance can be placed upon judgment rendered by this Court in the case of *Microqual Techno Limited's case (supra)*.

Accordingly, the instant petition is allowed and the instant FIR No.16, dated 07.03.2011, registered under Section 174A IPC at Police Station Mehatpur, District Jalandhar along with all subsequent proceedings emanating therefrom, are quashed qua the petitioner herein.

(JAISHREE THAKUR)
JUDGE

24.11.2021

sanjeev

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No