

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-37155-2021
Date of decision : 16.11.2021

Lakhwinder Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.P.P.S.Duggal, Advocate
for the petitioner.

Mr.Karanbir Singh, AAG, Punjab.

VIKAS BAHL, J.(ORAL)

This is the petition under Section 482 Cr.P.C. with a prayer for quashing of FIR no.197 dated 09.08.2019 registered under Section 174-A IPC, at Police Station Sadar Fazilka, District Fazilka.

Learned counsel for the petitioner has submitted that since the FIR under Section 174-A IPC was registered on account of a lapse in appearing in the proceedings in FIR no.125 dated 05.09.2016 and subsequently the petitioner had applied for anticipatory bail and was granted anticipatory bail vide order dated 16.10.2018 and had participated in the trial of FIR no.125 and vide judgment dated 30.09.2020, the petitioner was acquitted in the said FIR.

Learned State counsel has opposed the petition. However, the factual issue raised by the learned counsel for the petitioner has not been

This Court has heard learned counsel for the parties.

It is not in dispute that the petitioner was accused in FIR no.125 dated 05.09.2016 and had applied for anticipatory bail and was granted anticipatory bail vide order dated 16.10.2018 and thereafter, vide judgment dated 30.09.2020, the petitioner was acquitted in the said FIR. It is also not in dispute that the present FIR has been registered on account of the petitioner having not appeared in the trial of FIR no.125 dated 05.09.2016 for certain dates, although in the said case, the petitioner was acquitted.

A co-ordinate Bench of this Court in **CRM-M-43813-2018** titled as “**Baldev Chand Bansal vs. State of Haryana and another**”, decided on 29.01.2019 has held as under:-

“Prayer in this petition is for quashing of FIR No.64 dated 15.02.2017 filed under Section 174-A of the Indian Penal Code registered at Police Station Sector-5, Panchkula and all other subsequent proceedings arising thereof as well as order dated 24.10.2016 passed by the trial Court vide which a direction was issued to register the aforesaid FIR.

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*Learned counsel for the petitioner has relied upon the decisions rendered by this Court in “**Vikas Sharma vs. Gurpreet Singh Kohli and another (supra)**, 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.

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In view of the same, I find merit in the present petition and accordingly, present petition is allowed and the impugned order dated 24.10.2016 passed by Judicial Magistrate, 1st Class, Panchkula as well as FIR No.64 dated 15.02.2017 registered under Section 174-A of the Indian Penal Code at Police Station Sector-5, Panchkula and all other subsequent proceedings arising thereof, are hereby quashed.”

A perusal of the above judgment would show that in a similar case where the FIR had been registered under Section 174-A IPC in view of the order passed in proceedings under Section 138 of the Act, while declaring the petitioner therein as proclaimed offender, a co-ordinate Bench after relying upon various judgments observed that once the main petition under Section 138 of the Act stands withdrawn in view of an amicable settlement between the parties, the continuation of proceedings under Section 174-A IPC is nothing but an abuse of the process of law. The said aspect was one of the main consideration for allowing the petition and setting aside the order declaring the petitioner therein as proclaimed person as well as quashing of the FIR under Section 174-A IPC.

Another co-ordinate Bench of this Court in a case titled as **“Ashok Madan vs. State of Haryana and another”** reported as **2020(4) RCR (Criminal) 87** has also held as under:-

“No doubt, the learned counsel for the respondent has vehemently argued that the offence under Section 174A I.P.C. is independent of the main case, therefore, merely because the main case has been dismissed for want of prosecution, the present petition cannot be allowed,

however, keeping in view the fact that the present FIR was registered only on account of absence from the proceedings in the main case which had been subsequently regularised by the court while granting bail to the petitioner, the default stood condoned. In such circumstances, continuation of proceedings under Section 174A I.P.C. Shall be abuse of the process of court.

7. Accordingly, the petition is allowed. FIR No.446 dated 21.08.2017, registered under Section 174A I.P.C. At Police Station Kotwali, District Faridabad, as well as consequential proceedings shall stand quashed.”

A perusal of the relevant extract of the above judgment would show that where the main case was dismissed for want of prosecution, it was observed that the continuation of proceedings under Section 174-A IPC shall be abuse of the process of court.

Even in the present case, the petitioner has been acquitted in the main case. Acquittal in a case would be on the same footing as dismissal of the criminal case for want of prosecution or culmination of the criminal proceedings in favour of the accused, for the purpose of examining as to whether proceedings in FIR under Section 174-A IPC should be permitted to be continued or not. In all the said three situations, the continuation of the proceedings in FIR under Section 174-A IPC would be abuse of the process of the Court. Moreover, in the present case the FIR under Section 174-A IPC was registered on account of non-appearance in the trial Court, subsequently the petitioner had appeared before the trial Court and was acquitted and thus, even non-appearance stood regularised in view of the subsequent appearance of the petitioner.

Keeping in view the above said facts and circumstances as well as the law laid down in the above said judgments, the present petition is allowed and the FIR no.197 dated 09.08.2019 registered under Section 174-A IPC, at Police Station Sadar Fazilka, District Fazilka and all the subsequent proceedings arising therefrom are hereby quashed.

(VIKAS BAHL)
JUDGE

November 16, 2021
Davinder Kumar

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