

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(223)

CRM-M-41107-2021

Date of decision: - 07.12.2021

Satya Narain Gupta

....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Rakesh Gupta, Advocate, for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana
for respondent No.1.

Mr. Arjun Attri, Advocate, for respondent No.2.

VIKAS BAHL, J. (ORAL)

This is the petition under Section 482 Cr.P.C. with a prayer for quashing of FIR No.121 dated 20.01.2020, registered under Section 174-A IPC, at Police Station Shivaji Nagar, District Gurugram along with all the subsequent proceedings.

Learned counsel for the petitioner has submitted that respondent No.2 had filed a complaint against the petitioner and other co-accused under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred as 'NI Act') and in the said proceedings, the petitioner was declared as a proclaimed person, vide order dated 29.10.2019 (Annexure P-4) and vide the same order, the police was

directed to initiate proceedings under Section 174-A IPC registered against the petitioner.

Learned counsel for the petitioner has submitted that the case under Section 138 of the NI Act has been compromised and as per the compromise/agreement dated 26.10.2020 (Annexure P-6), it had been settled between the parties that the FIR in question would be quashed as well as the proceedings under Section 138 of the NI Act would also be withdrawn by respondent No.2 as he has already received the complete amount of Rs.7,80,000/-, including interest and other expenses and nothing is thus, due from the petitioner. In pursuance of the said compromise, the complaint under Section 138 of the NI Act was withdrawn on 16.08.2021.

Learned counsel for respondent No.2 has affirmed the fact that the matter has been compromised and the case under Section 138 of the NI Act has been withdrawn and he states that he has no objection in case the present petition for quashing of the FIR in question is also allowed.

Learned State counsel has opposed the present petition. However, the factual submissions pertaining to the said compromise, made by learned counsel for the petitioner as well as by learned counsel for respondent No.2 have not been disputed.

This Court has heard learned counsel for the parties.

It is not in dispute that the FIR under Section 174-A IPC was registered on account of the fact that the petitioner had been declared a proclaimed person in the present proceedings vide order dated

29.10.2019. In the said proceedings, a compromise has been effected and respondent No.2 has been fully satisfied and the payment due to him has been made under the compromise and accordingly, the complaint under Section 138 of the NI Act has been withdrawn, vide order dated 16.08.2021 (Annexure P-7). Even as per the agreement/compromise dated 26.10.2020 (Annexure P-6), the complainant has stated that he has no objection in case the present petition is allowed and the FIR No.121 dated 20.01.2020 registered under Section 174-A IPC is also quashed.

Learned counsel for respondent No.2 has also appeared and has reaffirmed the said facts and has prayed that the present petition be allowed.

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.

In view of the above-said facts and circumstances and as also the law on the point, the continuation of the proceedings in FIR under Section 174-A IPC would be abuse of process of the Court and thus, the present petition is allowed and the FIR No.121 dated 20.01.2020, registered under Section 174-A IPC, at Police Station Shivaji Nagar, District Gurugram and all the subsequent proceedings arising therefrom are hereby quashed.

December 07, 2021
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	No