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

CRM-M-52319-2021

Date of decision : 15.12.2021

Shravan Kumar Singh @ Sarvan Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Johan Kumar, Advocate for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.28 dated 10.02.2020 registered under Section 174-A of the Indian Penal Code, 1860 (hereinafter to be referred as “the IPC”) at Police Station City Safidon, District Jind (Annexure P-1) and all the subsequent proceedings arising therefrom.

Learned counsel for the petitioner has submitted that in the present case, one Satish Kumar had filed a complaint under Section 138 read with Section 142 of the Negotiable Instruments Act, 1881 (hereinafter to be referred as “the Act of 1881”) for the alleged dishonour of cheque dated 15.09.2016 amounting to Rs.2,38,114/- and in the said proceedings, the petitioner, who is a resident of Uttar Pradesh, was never

served and was wrongly declared as proclaimed person vide order dated 17.09.2019 passed by the Sub Divisional Judicial Magistrate, Safidon (for short "SDJM") and on account of the said fact, the present FIR was also registered. It is argued that in the proceedings under Section 138 of the Act of 1881, compromise has been effected and vide statement dated 16.03.2020 (Annexure P-4), the said Satish Kumar had stated that he had received the entire amount of the cheque and nothing is pending from the petitioner and vide order dated 16.03.2020 (Annexure P-3), the complaint filed under Section 138 of the Act of 1881 was withdrawn. It has further been argued that in view of the above, further proceeding in the FIR in question is an abuse of the process of law.

Notice of motion.

On advance notice, Mr. Praveen Bhadu, AAG, Haryana, appears and accepts notice on behalf of the State and has submitted that he is fully prepared to argue the matter and assist this Court. Although, he has opposed the present petition, however, the factual aspects as stated by the learned counsel for the petitioner have not been disputed.

This Court has heard the learned counsel for the parties and has perused the paper book.

From the record, it is apparent that the present FIR in question had been registered on account of the petitioner having been declared as proclaimed person vide order dated 17.09.2019 passed by the SDJM in the proceedings under Section 138 of the Act of 1881 which were instituted in pursuance of the complaint filed by Satish Kumar and

the said Satish Kumar had given a statement on 16.03.2020 (Annexure P-4) to the effect that the matter has been compromised and there is nothing due towards the present petitioner and accordingly, vide order dated 16.03.2020, the complaint filed under Section 138 of the Act of 1881 was withdrawn. The relevant portion of order dated 16.03.2020 (Annexure P-3) is reproduced hereinbelow:-

*“Present:- Complainant Satish Kumar in person
represented by Shri Abhishek Garg, Advocate.
Accused Sharwan Kumar on bail represented
by Shri Anjani Kumar, Advocate.*

Complainant has suffered a statement that he has received entire cheque amount from the accused and today pending amount of Rs. 38,000/- has also been received and nothing remains due towards the accused. So, he does not want to pursue with the present complaint and withdraws the same. Heard. In view of the statement as suffered by complainant, the present complaint is hereby dismissed as withdrawn. Accused stands discharged. Bail bonds and surety bonds of accused stand discharged. File be consigned to record room after due compliance.

*Pronounced in Open Court:- Sd/- (Ajay Kumar)
SDJM/Safidon
UID: HR0347.*

Date of Order: 16.3.2020”

A perusal of the above order would also show that in fact, the petitioner had also joined the proceedings under Section 138 of the Act of 1881 and was granted bail.

A Coordinate 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 of the IPC in view of the order passed in proceedings under Section 138 of the Act of 1881, while declaring the petitioner therein as proclaimed offender, a coordinate Bench after relying upon various judgments observed that once the main petition under Section 138 of the Act of 1881 stands withdrawn in view of an amicable settlement between the parties, the continuation of proceedings under Section 174-A of the 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 of the IPC.

Another Coordinate 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 of the IPC shall be an abuse of the process of court.

Keeping in view the abovesaid facts and circumstances and also in view of law the laid down in the abovesaid judgments, further proceedings in the FIR in question would be an abuse of the process of law and accordingly, the present petition is allowed and FIR No.28 dated 10.02.2020 registered under Section 174-A of the Indian Penal Code, 1860 (hereinafter to be referred as “the IPC”) at Police Station City Safidon, District Jind (Annexure P-1) and all the subsequent proceedings arising therefrom, are hereby quashed.

15.12.2021*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:- Yes/No****Whether reportable:- Yes/No**