

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(234)

CRM-M-4167-2022

Date of decision: - 26.08.2022

Ram Phal @ Ajay

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Anil Kumar Garg, Advocate,
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

This is a petition under Section 482 of Cr.P.C. for quashing of FIR No.565 dated 25.09.2021, registered under Section 174-A of IPC (Annexure P-2), at Police Station Karnal Civil Lines, District Karnal and all the subsequent proceedings arising therefrom.

Learned counsel for the petitioner has submitted that a complaint under Section 138 of the Negotiable Instruments Act, 1881 (for short 'NI Act') was filed by one Rahul Nagpal against the present petitioner, in which, the petitioner had never been served and had illegally been declared as proclaimed person, vide order dated 02.09.2019 (Annexure P-1) and in the said order, it was directed that the FIR against the present petitioner be registered and accordingly, in pursuance of the said order, the present FIR under Section 174-A has been registered. It is

submitted that when the petitioner learnt about the said proceedings, he has compromised the matter with the complainant and has repaid the cheque amount and the complainant has withdrawn the said complaint under Section 138 of the NI Act on 14.10.2021 (Annexure P-3). It is further submitted that since the main complaint has been withdrawn, thus, the present FIR deserves to be quashed.

Learned State counsel, on the other hand, has opposed the present petition and has submitted that the FIR has been registered in pursuance of the order passed by the Judicial Magistrate 1st Class, Karnal there is no ground to quash the same.

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

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.

xxx xxx xxx

*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.

xxx xxx xxx

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, declaring the petitioner therein as proclaimed offender in the said proceedings, 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 considerations 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 an abuse of the process of Court.

In the present case, Rahul Nagpal has filed a complaint against the present petitioner under Section 138 of the NI Act and as per the case of the petitioner, he was never served and had illegally been declared as proclaimed person, vide order dated 02.09.2019 and vide the same order, a direction was given to register FIR against the present petitioner and accordingly, the present FIR has been registered under Section 174-A IPC. In the complaint under Section 138 of the NI Act, the matter has been compromised and the complaint has been withdrawn and the said fact is apparent from an order dated 14.10.2021 (Annexure P-3) passed by the Judicial Magistrate 1st Class, Karnal.

Once the proceedings under Section 138 NI Act have been withdrawn, thus, the continuation of proceedings under Section 174-A IPC shall be an abuse of the process of Court.

Keeping in view the facts and circumstances as well as the authorities of law referred to above, the present petition is allowed and FIR No.565 dated 25.09.2021, registered under Section 174-A of IPC

(Annexure P-2), at Police Station Karnal Civil Lines, District Karnal and all subsequent proceedings arising therefrom are quashed/set aside.

August 26, 2022
naresh.k

(VIKAS BAHL)
JUDGE

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