

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

CRM-M-2360-2020

Date of Decision:-19.04.2022

Rishi Miglani.

.....**Petitioner.**

Versus

State of Haryana.

.....**Respondent.**

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Raghav Sharma, Advocate for the Petitioner.

Mr. Praveen Kumar Aggarwal, Deputy Advocate General
Haryana.

JASJIT SINGH BEDI, J. (ORAL)

This is a petition under Section 482 Cr.PC seeking quashing of Order dated 08.05.2018 (Annexure P-1) passed in Criminal Complaint No.CIS/273/2017 titled “Jindal Coating Pvt. Ltd. Vs. Uttam Strips Ltd. & Anr.” and FIR No.918 dated 06.09.2018 under Section 174-A IPC, registered at Police Station Hisar Sadar, District Hisar, on the basis of order dated 08.05.2018, as detailed above, and all subsequent proceedings arising therefrom.

Learned Counsel for the petitioner submits that though vide order dated 08.05.2018 (Annexure P-1), petitioner was declared proclaimed person and resultantly FIR No.918 dated 16.09.2018 (Annexure P-2), as detailed above, was registered against him for commission of offence under

Section 174-A IPC but later on he had put in appearance before the trial Court in complaint case titled “Jindal Coating Pvt. Ltd. Vs. Uttam Strips Ltd. And another” and the said complaint has already been dismissed as withdrawn on the basis of compromise, vide order dated 05.11.2019 (Annexure P-3). He further submits that once main proceedings wherein the petitioner was declared proclaimed person has already culminated in dismissal as withdrawn on the basis of compromise, proceedings under Section 174-A IPC initiated against the petitioner seem to be abuse of process of law.

The learned counsel for the complainant/respondent No.1 has not disputed the facts as stated by learned counsel for the petitioner and has further submitted that proceedings under Section 138 of the Act of 1881 have already been withdrawn and the matter has been compromised. The learned counsel for the complainant/respondent has also stated that he has no objection in case the present FIR and all subsequent proceedings arising therefrom are quashed.

The learned State counsel has opposed the present petition and has submitted that the FIR has been correctly registered.

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

From the above-said facts and circumstances, it is apparent that the present FIR was registered in view of the fact that the petitioner was declared as proclaimed person in the proceeding under Section 138 of the Act of 1881. The impugned complaint under Section 138 of the Act of 1881 itself has been withdrawn.

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.

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, 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 an abuse of the process of court. In the present case the proceedings under Section 138 NI Act have culminated in a settlement with the

withdrawal of the complaint under Section 138 NI Act.

In view of the above, the present petition is allowed and the Order dated 08.05.2018 (Annexure P-1) passed in Criminal Complaint No.CIS/273/2017 titled “Jindal Coating Pvt. Ltd. Vs. Uttam Strips Ltd. & Anr.” and FIR No.918 dated 06.09.2018 under Section 174-A IPC, registered at Police Station Hisar Sadar, District Hisar, on the basis of order dated 08.05.2018 declaring the petitioner as proclaimed person is quashed.

(JASJIT SINGH BEDI)
JUDGE

April 19, 2022
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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>