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

CRM-M-9014-2022
Date of decision : 03.03.2022

Balwinder Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Digvijay Nagpal, 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.54 dated 29.01.2019 registered under Section 174-A of the Indian Penal Code, 1860 (hereinafter to be referred as “the IPC”) at Police Station City Fatehabad, District Fatehabad and all the subsequent proceedings arising therefrom.

Learned counsel for the petitioner has submitted that in the present case, Surjeet Singh had filed a criminal complaint under Sections 420, 406, 467, 468, 471 and 506 read with Section 34 of the IPC against the present petitioner and one other accused on 07.01.2013. In the said complaint, the petitioner was declared as proclaimed absconder vide order

dated 18.03.2014 (Annexure P-4). He has further submitted that the said Surjeet Singh and his family members have compromised the matter with the present petitioner and the complaint which had been filed has been withdrawn. It is argued that the present FIR has been registered on account of non-appearance of the petitioner in the abovesaid criminal complaint which now stands withdrawn as having been compromised. It is further argued that no purpose would be served in keeping the proceedings under Section 174-A of the IPC alive.

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. He has opposed the present petition and submitted that FIR has been rightly registered as the petitioner was declared proclaimed absconder in the criminal complaint filed by one Surjeet Singh.

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

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 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 co-ordinate 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 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 of the IPC shall be abuse of the process of court.

In the present case, it is not in dispute that one Surjeet Singh had filed a complaint against present petitioner and another co-accused

under Sections 420, 406, 467, 468, 471 and 506 read with Section 34 of the IPC. In the said case, the petitioner was declared as proclaimed absconder vide order dated 18.03.2014 (Annexure P-4). The main case itself has been compromised by the said Surjeet Singh and his family members and the complaint has been withdrawn. The said fact is apparent from the order dated 06.08.2019 (Annexure P-6), the relevant portion of the same is reproduced hereasunder:-

“CNR No. HRFT03-000327-2019

18 Comi of 2019

Surjeet Singh vs. Balwinder

*Present: Complainant in person with Sh. Vishnu Manjhu,
Advocate.*

*Accused Balwinder on bail represented by Sh.
Amit Wadhera, Advocate.*

*Accused Gurjeet Kaur on bail represented by
Sh. Amit Wadhera, Advocate.*

Today, the case was fixed for defence evidence if any and for arguments. Complainant himself made a statement that matter has been compromised with the accused so at this stage, he does not want to pursue the present complaint and withdraw the same. He is duly identified by his counsel. Heard. In view of the above statement, present complaint stands dismissed as withdrawn. Accused are acquitted of the charges levelled against them. Bail and surety bonds of accused persons stand discharged. File be consigned to the record room after due compliance.

Sd/- (Ramawatar Pareek),

CJM, Fatehabad

UID No.HR0269

06.08.2019 ”

It is not in dispute that the present FIR has been registered on

account of non-appearance of the petitioner in the said complaint case. Once, the criminal complaint has been compromised and the same has been withdrawn, thus, keeping in view the law laid down in the abovesaid judgments, keeping the present FIR registered under Section 174-A of the IPC alive would be an abuse of process of the Court.

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 FIR No.54 dated 29.01.2019 registered under Section 174-A of the IPC at Police Station City Fatehabad, District Fatehabad and all the subsequent proceedings arising therefrom are hereby quashed.

03.03.2022*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:-****Yes/No****Whether reportable:-****Yes/No**