

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

CRM-M-9639-2022

Date of Decision: 24.08.2022

VIKRAM SINGH

...Petitioner

V/S

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Ms. Pooja Jaglan, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG Haryana.

PANKAJ JAIN J. (Oral)

By way of present petition, the petitioner is seeking quashing of FIR No. 235 dated 07.12.2021 under Section 174-A IPC registered at Police Station Jhansa, District Kurukshetra (Annexure P-10) and quashing of the order dated 07.04.2021 (Annexure P-6) passed by Ld. Judicial Magistrate Ist Class, Kurukshetra in complaint bearing No. NACT/838/2018 filed under Section 138 of the Negotiable Instruments Act 1881 and consequential proceedings arising therefrom.

Reply has been filed by the State and the same is taken on record.

Learned counsel for the petitioner refers to order dated 16.03.2022 passed by the trial Court, whereby the complainant withdrew the complaint filed under Section 138 of Negotiable Instruments Act 1881, acknowledging the fact that accused has made

the entire payment.

On 07.03.2022, while issuing notice of motion, this Court observed as under:

“The present petition has been filed under Section 482 Cr.P.C., seeking quashing of FIR No.235 dated 07.12.2021 registered under Section 174-A IPC at Police Station Jhansa, District Kurukshetra as well as challenging the order dated 07.04.2021 (Annexure P-6) passed by the JMIC, Kurukshetra.

Learned counsel for the petitioner inter alia submits that the proclamation in question had been done ignoring the fact that no proper service had been effected upon the petitioner and that the address of the petitioner was incorrectly recorded in the report so furnished. Whilst the address of the petitioner was House No.19 Pocket E, Kurukshetra University, Kurukshetra, the service report merely mentioned the proclamation having been done at House No.19 without detailing the pocket considering there are as many as 5 different pockets, each having House No.19. Learned counsel further submits that a revision petition against the order of proclamation has already been filed by the petitioner before the learned Sessions Court at Kurukshetra and the same is pending, however, during the pendency of the said revision petition, the instant FIR has been registered. Learned counsel submits that the proceedings in the main case viz., the complaint under Section 138 Negotiable Instrument Act are itself an abuse of process of law and that no amount was due. The complaint has been filed for dishonour of a cheque of Rs.40 Lakhs, however, as per the accounts available with the petitioner, a sum of Rs. 31 Lakhs already stood paid. Nonetheless, the same being issues of defence, he would not delve into the merits of the said claim and undertakes to deposit a sum of Rs. 40 Lakhs i.e., the cheque amount with the trial Court, subject to the final outcome of the complaint to show his bona fide.

Notice of motion.

In the meanwhile, the petitioner shall surrender before the trial Court within a period of 10 days from receipt of copy of this order and shall furnish a fixed deposit to the tune of Rs.40 Lakhs (the amount of cheque). Upon the petitioner surrendering before the trial Court and submission of the fixed deposit to the tune of Rs.40 Lakhs as above, learned trial Court shall admit the petitioner to

bail."

Precisely the contention of learned counsel for the petitioner is that once the complaint filed under Section 138 of the NI Act stands withdrawn and the liability which was alleged against the petitioner stands satisfied, the present proceedings under Section 174-A IPC should not be allowed to continue.

In view of the facts and circumstances as pleaded by the parties, it is apparent that the present FIR came into existence owing to the petitioner having been declared proclaimed person in the proceedings under Section 138 of the NI Act. The said complaint stands withdrawn. Thus the question would arise as to whether the proceedings under Section 174-A IPC should be allowed to continue after compounding of offence under which accused was declared proclaimed offender or not? The said question is no more *res-integra* and already stands settled by the Co-ordinate Bench of this Court in CRM-M-43813-2018 titled as ***“Baldev Chand Bansal Vs. State of Haryana and another”*** vide order dated 29.01.2019, which 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."

Same is the view of another Co-ordinate Bench in the “**Ashok Madaan vs. State of Haryana and another” reported as 2020 (4) RCR (Criminal) 87**, wherein it has been held that:

“No doubt, the learned counsel for the respondent has vehemently argued that the offence under Section 174-A 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.”*

Keeping in view the facts and circumstances of the case and in

view of the principles settled by various Courts, the present petition is allowed. The impugned order dated 07.04.2021 passed by Ld. JMIC, Kurukshetra and the FIR No. 235 dated 07.12.2021 under Section 174-A I.P.C. registered at Police Station Jhansa, District Kurukshetra, are hereby quashed qua the petitioner.

24.08.2022
Ajay Goswami

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No