

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

250

CRM-M-11759-2021(O&M)
Date of decision: 04.04.2022

JASKARAN SINGH

...Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present : Mr. Ramandeep Singh Pandher, Advocate
for the petitioner.

Mr. Karanbir Singh, AAG, Punjab.

Mr. Rajesh Bhateja, Advocate
for respondent No.2.

VINOD S. BHARDWAJ. J. (ORAL)

1. The question that arises for consideration in the instant petition is as to whether an FIR under Section 174-A of the Indian Penal code, 1860 can be quashed once the substantive complaint wherefrom the proceedings had emanated itself stands settled amongst the parties?

2. The instant petition has been filed under Section 482 Cr.P.C for seeking quashing of the FIR No.216 dated 30.12.2016 registered under Section 174-A IPC at Police Station Fatehgarh Sahib along with all proceedings arising therefrom.

3. It would be appropriate to make a brief reference to the facts involved in the instant case. The respondent-complainant had instituted the proceedings against the petitioner as well as his father Jarnail Singh alleging that

on 05.07.2012, at about 9:00 p.m., when the complainant along with one Karnail Singh was coming back to his village on his scooter bearing No.PB-48-4124 driven by the complainant, a bullock cart came on the road from the left side and hit the scooter thereby causing grievous injuries to the complainant including fracture of the left leg. There was no reflector fixed on the said cart for the purposes of night riding and hence, the respondents acted negligently and carelessly. The petitioner was declared as a proclaimed offender in the said case whereas father of the petitioner faced the trial. Vide judgment dated 12.03.2018 passed in CIS No. CRM-930-2012 titled as "*Baljinder Singh versus SSP, Fatehgarh Sahib and others*", the father of the petitioner was acquitted. It is submitted that the petitioner appeared before the Court and thereafter the petitioner surrendered before the Court and was released on bail vide order dated 08.01.2020. It is further pointed out that the matter in question has already been compromised between the parties and copy of the statement of complainant in this regard was appended along with the petition. He further submits that pursuant to the order dated 20.01.2016 vide which petitioner was declared Proclaimed Offender, the impugned FIR was registered against the petitioner under Section 174(A) of the IPC. It is however argued by the learned counsel that the petitioner was regularly appearing in the said complaint and on 20.05.2015, he was informed by his counsel that the petitioner stands acquitted and he need not come to the Court. Thereafter, he went to New Zealand and from there proceeded to Canada. He submits that the summons; warrants i.e. bailable or non-bailable were never served upon the petitioner. Besides, he further submits that no proper proclamation was issued and that the petitioner had been residing abroad since July 2015 and did not return. He has argued that the matter has been amicably resolved between the parties and that even the earlier proceedings resulted in acquittal of father of

the petitioner. The incarceration of the petitioner in the above FIR is not likely to advance any interest of justice.

4. Learned counsel appearing on behalf of the petitioner has submitted that the issuance of the proclamation was bad and that no actual service had been effected upon him. He further submitted that procedure contemplated under Section 82 CrPC had not been followed, hence the consequent proclamation of the petitioner was improper. It is, thus, contended that non-appearance of the petitioner was not on account of any deliberate attempt to avoid appearance before the Court, rather, proper service was never effected upon the petitioner. Learned counsel further contends that failure to effect service upon the petitioner apart, the parties have also resolved their dispute and now there is no amount due against the petitioner. In support thereof, he has made reference to the order dated 23.12.2020 passed by ACJ (SD)-cum-CJM, Fatehgarh Sahib as per which the complainant got recorded his statement to the effect that compromise between the parties had been effected and had withdrawn the complaint filed by him in acknowledgment of the same. The order dated 23.12.2020 passed by ACJ (SD)-cum-CJM, Fatehgarh Sahib is extracted as under:-

“Baljinder Singh Vs. SSP Fatehgarh Sahib etc.

*Present : Complainant with counsel Sh. N.S. Toor, Advocate
Accused Jaskaran Singh with Sh. JS Ahujla, Advocate*

File taken up today on application of complainant for withdrawal of this complaint. Complainant Baljinder Singh suffered a statement that parties have arrived at compromise and as such he does not want to pursue the present complaint further and withdraw the same. So, in view of the statement of complainant duly identified by his counsel, the present complaint is hereby dismissed as withdrawn. Accused Jaskaran Singh is ordered to acquitted in the

present case. His bail bond and surety bond stands discharged. File be consigned to the record room.”

5. Learned counsel for the petitioner further contends that there is no dispute pending amongst the parties and that the principle dispute having been compromised amongst the parties, no ends of justice are likely to be advanced by compelling the petitioner to undergo the rigours of criminal prosecution in a case which is an outcome of non-appearance of the petitioner in the said case.

6. Learned State counsel raises no serious objection to the arguments raised by the petitioner. There is no denial or dispute regarding the statement made by the parties and the final order passed in the complaint.

7. I have heard learned counsel for the parties and have gone through the record of the case with their able assistance.

8. In order to appreciate the prayer, it would be essential to refer to certain precedent judgements dealing with the similar issue. A co-ordinate Bench of this Court in the matter of **Ashok Madan Vs. State of Haryana & Another**, passed in CRM-M-51783 of 2018 decided on 28.05.2019 held as under:-

6.No doubt, the learned counsel for the respondent has vehemently argued that the offence under Section 174-A IPC 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 proceeding sunder Section 174-A IPC shall be abuse of the process of court.

9. Further in the matter of **Prem Bansal Vs. State of Haryana & Another** passed in CRM-M-7354 of 2022 decided on 22.02.2022, a co-ordinate

Bench of this Court held as under:-

'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 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 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 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.

10. A perusal of the same would show that where the substantive proceedings, wherein the order declaring the accused-petitioner as proclaimed person was passed, have already been amicably resolved amongst the parties, resulting in withdrawal of the complaint or the quashing of the proceedings, the FIR registered under Section 174-A IPC, as a result of certain interim order passed in criminal proceedings, have also been quashed. The object being to secure presence of an accused and to establish rule of law so that the proceedings could be finalized. Once the parent dispute stands amicably resolved, the proceedings initiated as a result of intermediary orders would not sub-serve any interest of justice. The proceedings under Section 138 of the Negotiable Instruments Act being quasi-criminal, the object is to resolve the dispute and when such an object is served, the Court should adopt a liberal approach towards the accused who has already redressed the grievance of the complainant.

11. Without going into the controversy as to whether the service was correctly and properly effected upon the petitioner in the instant case or not at this stage, and after noticing that the main case already stands settled in view of

compromise executed between the parties and the complaint having been withdrawn, the registration of the instant FIR, that is only an outcome of the proceeding held in the said compliant, would not serve any purpose by keeping the present FIR and other proceedings alive.

12. The instant petition is accordingly allowed and FIR No.216 dated 30.12.2016 registered under Section 174-A IPC at Police Station Fatehgarh Sahib (Annexure-P1) along with all subsequent proceedings arising therefrom are **quashed** qua the petitioner. However, the same would be subject to payment of costs of Rs.10,000/- to be deposited by the petitioner with the “**Punjab and Haryana High Court Bar Clerk’s Association**”, within one month from receipt of certified copy of this order.

(VINOD S. BHARDWAJ)
JUDGE

APRIL 04, 2022

Vishal sharma

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>