

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-9372-2020

Date of decision : 13.09.2022

Pardeep Kumar

..... Petitioner

versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. S.K. Tripathi, Advocate
for the petitioner.

Mr. Sumit Jain, Addl. A.G., Haryana.

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioner is seeking quashing of impugned order dated 22.01.2020 (Annexure P-2) passed in proceedings under Section 138 of the Negotiable Instrument Act, 1881, whereby the petitioner was declared a proclaimed offender and direction was issued to the concerned SHO for initiating proceedings under Section 174-A of IPC. Further prayer has been made for quashing of the FIR No.0040 dated 04.02.2020 registered at P.S. Bawal(Annexure P-3).

By referring to the order dated 14.02.2020 placed on record (Annexure P-5), counsel for the petitioner submits that in view of the fact that the original complaint under Section 138 of the Negotiable Instrument Act, stands dismissed as withdrawn, present proceedings under Section 174-A IPC, cannot be allowed to continue.

Learned State counsel is not in a position to dispute the

factual position based on record that the original complaint under Section 138 of the Negotiable Instrument Act, already stands withdrawn.

I have heard Ld. Counsel for the parties and have gone through the records of the case.

It is matter of record that after order dated 14.02.2020 the complaint filed u/s 138 of the N.I. Act stands withdrawn. Thus, the question would arise is 'whether after withdrawal of the complaint u/s 138 of the N.I. Act, proceedings u/s 174-A IPC can be allowed to continue?'

The question framed *ibid* is no more *res integra* and already stands answered by 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 present case and in view of the principles settled by this Court, the present petition is allowed. FIR No.0040 dated 04.02.2020 registered for the offence punishable u/s 174-A of the IPC at P.S. Bawal (Annexure P-3) and all proceedings subsequent thereto are hereby quashed.

(PANKAJ JAIN)
JUDGE

13.09.2022
ps-I

Whether speaking/reasoned	Yes
Whether Reportable :	No