

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-8970-2019(O&M)
Date of decision : 14.11.2022

Vikram Singh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr. Sanjiv Gupta, Advocate
for the petitioner.

Mr.Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J.(ORAL)

CRM-31804-2019

This is an application under Section 482 Cr.P.C. for placing on
record documents as Annexures P-6 to P-9.

Application is allowed. Annexures P-6 to P-9 are taken on
record subject to all just exceptions.

CRM-M-8970-2019

This is a petition under Section 482 Cr.P.C. for quashing of
FIR no.1238 dated 01.12.2017 registered under Section 174-A IPC at
Police Station Panipat, District Panipat and all the consequential
proceedings arising therefrom.

Learned counsel for the petitioner has submitted that a
complaint under Section 138/142 of the Negotiable Instruments Act (in
short "N.I. Act") was filed by one Ram Kumar against the present petitioner
with respect to dishonour of the cheque dated 30.06.2015 amounting to

declared proclaimed person vide order dated 23.05.2017 passed by the Judicial Magistrate Ist Class, Panipat and in the said order direction was given to the concerned SHO to register FIR under Section 174-A IPC and in pursuance of the said direction, the present FIR has been registered. It is submitted that the petitioner learnt about the said proceedings and the petitioner filed CRM-M-4302-2018 and coordinate Bench of this Court vide order dated 02.02.2018 disposed of the petition with a direction to the trial Court that in case the petitioner surrenders before the trial Court within a period of one week then he shall be admitted to interim bail. It is further submitted that thereafter, the petitioner appeared before the trial Court and faced trial and vide judgment dated 05.09.2018 (Annexure P-4) was acquitted. It is also submitted that the petitioner has not received any notice in any proceedings. It is stated that as per the knowledge of the petitioner, the said judgment dated 05.09.2018 has attained finality. It is submitted that since the petitioner had appeared in the proceedings under Section 138 of the N.I. Act and had been acquitted in the said case, the present FIR deserves to be quashed.

Notice of motion was issued in the present case and reply has been filed by the State.

Learned State counsel has opposed the present petition for quashing of the FIR and has submitted that in the present case the FIR has been registered in pursuance of the order dated 23.05.2017 passed by the Judicial Magistrate Ist Class, Panipat and the said order is legal and in accordance with law and thus, the present petition deserves to be dismissed.

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

A Coordinate 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 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 considerations for allowing the petition and setting aside the order declaring the petitioner therein as a 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 an abuse of the process of court.

In the present case, one Ram Kumar had filed a complint under Sections 138/142 of the N.I. Act and during the pendency of the said case, the petitioner was declared as a proclaimed person on 23.05.2017

(Annexure P-7) and the concerned SHO was directed to register an FIR under Section 174-A IPC and in pursuance of the same, the impugned FIR has been registered. It is the case of the petitioner that he was never duly served and had challenged the order declaring the petitioner as proclaimed person by filing CRM-M-4302-2018 and a coordinate Bench of this Court vide order dated 02.02.2018 had disposed of the said petition with a direction to the petitioner to surrender before the trial Court within a period of one week and on doing so, the petitioner was directed to be released on interim bail. The petitioner had subsequently faced trial and vide judgment dated 05.09.2018 (Annexure P-4) has been acquitted under Section 138 of the N.I. Act. It is the case of the petitioner that as per his knowledge, the said judgment had attained finality. Since the main proceedings under Section 138 of the N.I. Act have culminated into the acquittal of the petitioner and at any rate the petitioner had joined the said proceedings, thus, continuation of prosecution in the FIR under Section 174 A IPC would be an abuse of process of Court.

Keeping in view the above said facts and circumstances, the present petition is allowed and the FIR no.1238 dated 01.12.2017 registered under Section 174-A IPC at Police Station Panipat, District Panipat and all the consequential proceedings arising therefrom, are hereby quashed.

Pending miscellaneous application, if any, stands disposed of in view of the abovesaid order.

(VIKAS BAHL)
JUDGE

November 14, 2022

Davinder Kumar