

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

CRM-M-9633-2020

Date of decision : 08.09.2022

Opendar Gupta

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

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

Mr. R.K. Ambavta, Asstt. Advocate General, Haryana.

PANKAJ JAIN, J. (ORAL)

By way of present petition filed u/s 482 Cr.P.C., the petitioner is seeking quashing of FIR No.43 dated 14.02.2020 registered for the offence punishable u/s 174-A of the Indian Penal Code, 1860 (for short, 'the IPC') at Police Station Saha, District Ambala (Annexure P-1) and all proceedings subsequent thereto.

2. Ld. Counsel for the petitioner refers to Annexure P-7, to submit that the proceedings initiated against the petitioner u/s 138 of the Negotiable Instruments Act, 1881 (for short, 'the N.I. Act') have finally culminated into withdrawal of the complaint, after the parties reconciled their differences. He, thus, submits that owing to the fact that the proceedings u/s 138 of the N.I. Act already stand concluded and the absence of petitioner stands condoned in the said proceedings, the

present FIR u/s 174-A of the IPC, registered on account of absence of the petitioner in those proceedings that too after three years of dismissal of the complaint, cannot sustain.

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

4. The contents of the FIR read as under :-

“From Sher Singh, Judicial Magistrate 1st Class Ambala. To, SHO PS Ambala City No. 832 dated 02.08.2017 Sub:- intimation regarding the person declared as proclaimed person. It is intimation to you that in case titled Baldev Raj Vs. Opinder Gupta Case No. 717 dated 25.04.16/28.03.16 CIS No. 660/16 accused Opinder Gupta S/o Mohan Lal Gupta R/o Prop. Pankaj Autos, Near Namaste Chouk, Karnal is declared as proclaimed person on 03.07.2017. You are directed to register FIR U/s 174-A, IPC under intimation to this court in this regard. It is sent for information and necessary action.”

5. The same was registered on the basis of order dated 3rd of July, 2017 passed by the JMJC, Ambala.

6. It is matter of record that after order dated 3rd of July, 2017, the complaint filed u/s 138 of the N.I. Act stands withdrawn.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?'

7. 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.”

8. 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.”

9. 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.43 dated 14.02.2020 registered for the offences punishable u/s 174-A of the IPC, at Police Station Saha, District Ambala and all proceedings arising therefrom, are hereby quashed *qua* the petitioner.

September 08, 2022
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No