

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

CRM-M-15596-2022(O&M)

Date of Decision:-15.12.2022

Raj Kumar.

.....Petitioner.

Vs.

M/s Chand Enterprises.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Dinesh Maurya, Advocate,
for Mr. G.S. Sandhu, Advocate for the Petitioner.

None for the Respondent.

Mr. Neeraj Poswal, AAG Haryana.

JASJIT SINGH BEDI, J.(ORAL)

This is a petition under Section 482 of Cr.P.C. for quashing of FIR No.96 dated 01.02.2022 registered under Section 174-A of IPC at Police Station Sadar, Karnal, District Karnal (Annexure P-5) which was registered consequent to the order passed by the learned Judicial Magistrate, 1st Class, Karnal dated 12.01.2015 (Annexure P-2) declaring the petitioner as a proclaimed person in a complaint case under Section 138 Negotiable Instruments Act, 1881.

The brief facts of the case are that a complaint under Section 138 of Negotiable Instruments Act was instituted against the petitioner/accused at the instance of the complainant-M/s Chand Enterprises. During the pendency of the complaint the petitioner/accused did not appear before the Trial Court to face trial. He was declared a

proclaimed person as per order dated 12.01.2015 (Annexure P-2) pursuant to which an FIR No.96 dated 01.02.2022 registered under Section 174-A of IPC at Police Station Sadar Karnal, District Karnal (Annexure P-5) came to be instituted against him.

Thereafter as the complainant did not turn up before the Trial Court his complaint was ordered to be dismissed for want of prosecution vide order dated 23.09.2016 (Annexure P-4).

The learned counsel for the petitioner submits that he was never served in the said proceedings and he learnt about the said proceedings only after the police raided his house, after being declared as a proclaimed person. Be that as it may, the complaint stands dismissed in default for non-appearance of the complainant and therefore, the present proceedings ought to be quashed.

The learned State counsel has opposed the present petition and has submitted that the FIR has been correctly registered.

This Court has heard the learned counsel for the petitioner and the learned State counsel and has perused the paper-book.

From the above-said facts and circumstances, it is apparent that the present FIR was registered in view of the fact that the petitioner was declared as a proclaimed person in the proceeding under Section 138 of the Act of 1881. The impugned complaint under Section 138 of the Act of 1881 itself has been dismissed in default.

A 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 IPC shall be an abuse of the process of court.

In view of the above, the present petition is allowed and the FIR No.96 dated 01.02.2022 under Section 174-A of IPC at Police Station Sadar Karnal, District Karnal (Annexure P-5) which was registered consequent to the order dated 12.01.2015 passed by learned Judicial Magistrate, 1st Class, Karnal (Annexure P-2) declaring the petitioner as a proclaimed person in a complaint case under Section 138 Negotiable Instruments Act, 1881 with all consequential proceedings are hereby quashed qua the petitioner.

(JASJIT SINGH BEDI)
JUDGE

December 15, 2022
sukhpreet

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