

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(277-1)

CRM-M-17751-2022

Date of decision: - 30.05.2022

Lalita Aggarwal @ Sangita Aggarwal

....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Deepak Aggarwal, Advocate, for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

Mr. Rohit Gupta, Advocate, for respondent No.2.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.367 dated 14.11.2021 (Annexure P-4 wrongly typed as Annexure P-1 in the head note of the present petition), registered under Sections 174-A of the Indian Penal Code, 1860 at Police Station Urban Estate, Hisar, District Hisar, qua the petitioner only.

Learned counsel for the petitioner has submitted that an FIR No.142 dated 22.03.2012 under Sections 420, 406, 506 and 120-B IPC was registered at Police Station Civil Lines, District Hisar against the present petitioner and her husband, namely, Sachin Mittal and during the said proceedings, the petitioner was declared as proclaimed person vide order dated 23.01.2013 and a direction was given to the SHO to take

necessary action and in pursuance of the same, FIR No.367 dated 14.11.2021, which is impugned in the present petition, has been registered against the present petitioner and her husband Sachin Mittal. It is submitted that a compromise has been effected with respondent No.2 with respect to the dispute in FIR No.142 dated 22.03.2012 and on the basis of compromise, a petition bearing CRM-M-17742-2022 was filed by the present petitioner, in which, initially notice of motion was issued and the parties were directed to record their statements and after the statements have been recorded and the report had been submitted by the trial Court, the said petition has been allowed and the said FIR qua the present petitioner has been quashed. It is submitted that once the FIR against the present petitioner has been quashed and the present FIR has been registered on account of non-appearance in the said proceedings, then, the present FIR qua the present petitioner also deserves to be quashed and for the same the petitioner has relied upon a judgment of 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**,

Learned State Counsel has submitted that he is fully prepared to argue the matter and assist this Court. He has opposed the present petition and has stated that order dated 23.01.2013, vide which the petitioner has been declared as proclaimed offender has rightly been passed and present FIR has been rightly registered.

Learned counsel for the respondent No.2 has reiterated the fact that the matter has been compromised in above-said FIR No.142

dated 22.03.2012 and respondent No.2 has no objection in case the present petition is allowed.

This Court has heard learned counsel for the parties and has gone through the paper-book.

A Co-ordinate Bench of this Court in **Baldev Chand Bansal's case (supra)** 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 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. 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 IPC in view of the order passed in proceedings under Section 138 of the Act, 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 stands withdrawn in view of an amicable settlement between the parties, the continuation of proceedings under Section 174-A 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 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 IPC shall be an abuse of the process of court.

In the present case, it is not in dispute that respondent No.2

had lodged an FIR No.142 dated 22.03.2012 against the present petitioner and her husband, namely, Sachin Mittal. In the said proceedings, the petitioner and her husband were declared as proclaimed persons vide order dated 23.01.2013 and a direction was issued to the SHO to take necessary note and in pursuance of the same, the present FIR has been registered under Section 174-A IPC. It is not in dispute that a compromise has been effected between petitioner and respondent No.2 and keeping in view the said compromise, FIR No.142 dated 22.03.2012 has been quashed qua the petitioner in a petition filed under Section 482 Cr.P.C. Since, FIR No.142 dated 22.03.2012 itself has been quashed qua the present petitioner, thus, keeping the present FIR registered under Section 174-A IPC alive against the present petitioner would be an abuse of the process of the Court.

Keeping in view the abovesaid facts and circumstances, as well as the authorities of law referred to above, the present petition is allowed and FIR No.367 dated 14.11.2021 (Annexure P-4 wrongly typed as Annexure P-1 in the head note of the present petition), registered under Sections 174-A of the Indian Penal Code, 1860 at Police Station Urban Estate, Hisar, District Hisar and all the consequential proceedings arising therefrom, are ordered to be quashed qua the petitioner.

May 30, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes
No