

CRM-M-31487-2018

Reserved on: 27.10.2022

Date of Pronouncement: 01.11.2022

Suparna Sapru and another

.....Petitioners

versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR**Present:** Mr. Vikas Chaudhary, Advocate
for the petitioners.

Ms. Gaganpreet Kaur, A.A.G., Haryana.

NAMIT KUMAR, J. (ORAL)

This petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.814 dated 07.12.2017 under Sections 174-A of IPC registered at Police Station Sector-31, Faridabad (Annexure P-1) and all consequential proceedings arising therefrom.

On 26.07.2018, notice of motion was issued and the following contentions of the petitioners were recorded:-

“Prayer in this petition is for quashing of FIR No.814 dated 07.12.2017 under Section 174-A IPC, registered at Police Station Sector-31, Faridabad and all the consequential proceedings arising therefrom.

Learned counsel for the petitioners submits that on account of dishonouring of a cheque, the complainant has registered an FIR No.159 dated 27.08.2012 under Sections 420, 406, 506, 120-B IPC, at Police Station Sector 31, Faridabad and simultaneously, she also filed a complaint under Section 138 of the Negotiable Instruments Act. Counsel for the petitioners further submits that in FIR No.159, the petitioners were granted anticipatory bail and when the challan was presented, without effecting service on the petitioners, the trial Court has issued a proclamation against them and vide order dated 25.10.2016,

they were declared proclaimed offenders. The trial Court has also directed that an FIR in this regard be also registered and the present FIR under Section 174- A IPC was registered.

Learned counsel for the petitioners has further submitted that the petitioners were convicted by the trial Court vide judgment dated 05.12.2014 and were sentenced to undergo R.I. vide order of sentence dated 08.12.2014. Thereafter, during pendency of the appeal filed by the petitioners before the lower appellate Court, the matter was compromised between the parties and after recording their statements, the petitioners were acquitted vide order dated 30.01.2018. It is further submitted that in aforesaid FIR No.159, the petitioners have appeared and they have been granted bail and thus, order dated 25.10.2016, vide which the petitioners were declared proclaimed offenders, is no more in existence, which is forming the basis of registration of present FIR.

Notice of motion for 16.11.2018.

In the meantime, trial Court is directed to adjourn the case beyond the date fixed before this Court.”

Learned counsel for the petitioners submits that in FIR No.159 dated 27.08.2012 filed under Sections 420, 406, 506, 120-B IPC, registered at Police Station Sector-31, Faridabad, the petitioners have been acquitted by the Court of Ld. JMIC, Faridabad vide judgment dated 26.03.2019 and in the complaint filed under Section 138 of the Negotiable Instruments Act, the matter has been compromised at the appellate stage and their appeal has been accepted and the impugned judgment of conviction dated 05.12.2014 and order of sentence dated 08.12.2014, have been set aside and the petitioners have been acquitted of the charge levelled against them, by the learned Additional Sessions Judge, Faridabad vide order dated 30.01.2018 (Annexure P-2). He further submits that since the main proceedings itself have been culminated into the order of acquittal,

therefore, the impugned FIR registered under Section 174 A of IPC, may be quashed.

To support his contention, he relies upon the judgment of this Court passed in 'Aditya Goyal vs. State of Haryana' being CRM-M-11269-2019, decided on 07.05.2019.

In the above said judgment, this Court has quashed the proceedings under Section 174-A of IPC, where the main proceedings have already been concluded. The relevant portion from **Aditya Goyal's case (Supra)** is as under:-

*“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 174-A of IPC shall be nothing but an abuse of the process of law.*

Learned State counsel, on instructions from the Investigating Officer, has not disputed the factual position.

After hearing learned counsel for the parties, I find merit in the present petition.

Since the main complaint filed by the complainant under Section 138 of the N.I. Act itself stands dismissed as withdrawn by the trial Court keeping in view the fact that petitioner has cleared the entire dues and on the direction of this Court, the petitioner has already appeared before the Investigating Officer and has also deposited the cost of

Rs.10,000/- with the Illaqa Magistrate, this Court is of the opinion that continuation of proceedings under Section 174-A IPC shall be an abuse of process of law.

Accordingly, in view of the facts and circumstance of the case and also in view of the judgments relied upon by the petitioner, this petition is allowed and order dated 03.12.2018 (Annexure P-1), passed by the trial Court in Criminal Complaint No. 1624/2017 dated 12.09.2017, filed under Section 138 of the N. I. Act, vide which, the petitioner has been declared a proclaimed person as well as other consequential proceedings arising therefrom including FIR No. 66 dated 01.02.2019, registered under Section 174-A IPC at Police Station Jagadhri City, District Yamuna Nagar (Annexure P-2) are hereby quashed.”

To the same effect, is the judgment passed in 'Lakhwinder Singh versus State of Punjab' being CRM-M-37155-2021 decided on 16.11.2021.

Reply to the petition has not been filed by the State.

Learned State counsel has not disputed the fact that the matter has been compromised between the parties and the petitioners have been acquitted in FIR No.159 dated 27.08.2012 and the proceedings under Section 138 of the Negotiable Instruments Act, have already been culminated into acquittal.

Heard learned counsel for the parties and perused the records.

Since the matter has been settled between the parties and the petitioners have been acquitted in the proceedings under Section 138 of the Negotiable Instruments Act and also in FIR No.159 dated 27.08.2012 filed under Sections 420, 406, 506, 120-B IPC, registered at Police Station Sector-31, Faridabad, vide judgment dated 26.03.2019, therefore, no

fruitful purpose would be served in continuing the proceedings under Section 174-A of IPC.

Keeping in view the aforesaid facts as well as settled law referred to above, the present petition is allowed and the impugned FIR No.814 dated 07.12.2017 under Sections 174-A of IPC registered at Police Station Sector-31, Faridabad (Annexure P-1) and all subsequent proceedings arising therefrom, are hereby quashed, *qua* the petitioners only.

01.11.2022
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(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No