

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-22685-2022
Date of decision : 23.05.2022

Gurlal Singh and another

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr. Kuljit Singh Bal, Advocate
for the petitioners.

Mr.Sarabjit Singh Cheema, AAG, Punjab.

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 482 Cr.P.C. for quashing of FIR no.119 dated 03.04.2022 registered under Section 174-A IPC at Police Station Division A, District Police Commissionerate Amritsar and all the subsequent proceedings arising therefrom as well as order dated 28.02.2022 (Annexure P-7) whereby the petitioners were declared proclaimed persons.

Learned counsel for the petitioners has submitted that in the present case, Axis Bank Ltd. had filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 (in short "N.I. Act") against the present petitioners and the petitioners were not aware about the said proceedings and thus, declared as proclaimed persons vide order dated 28.02.2022 and in the said proceedings, direction was given to the SHO concerned to initiate proceedings against the present petitioners, in accordance with law. It is

Section 174-A IPC was registered. It is also submitted that the moment the petitioners learnt about the said proceedings, the petitioners compromised the matter with the bank and accordingly counsel for the bank had made a statement on 19.04.2022 in the proceedings under Section 138 of the N.I. Act that he wishes to withdraw the same and the bank has no objection in case the FIR under Section 174-A IPC against the petitioners is quashed. It is also stated that vide order dated 14.05.2022, the said complaint under Section 138 N.I. Act has been withdrawn in view of the compromise. It is submitted that in view of the above, the present proceedings are an abuse of process of the Court.

Learned State counsel has opposed the present petition. However, the factual issues raised by the learned counsel for the petitioners have not been disputed.

This Court has heard learned counsel for the parties.

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 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.

xxx xxx xxx

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, 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 abuse of the process of court.

A perusal of the facts in the present case would show that Axis Bank Ltd. had filed a complaint under Section 138 of the N.I. Act against the present petitioners and in the said proceedings, the petitioners were declared as proclaimed persons vide order dated 28.02.2022 (Annexure P-7) and in the said proceedings, direction was given to the SHO concerned to proceed against the petitioners as per the law and in pursuance of the same, the present FIR under Section 174-A IPC was registered. A perusal of the statement dated 19.04.2022 would show that the counsel for the complainant bank had given a statement to the effect that he wishes to withdraw the same, at this stage and that he has no objection in case the FIR under Section 174-A IPC is quashed. The proceedings under Section 138 of the N.I. Act were ultimately withdrawn in view of the compromise, on 14.05.2022. The relevant portion of the statement dated 19.04.2022 is reproduced hereinbelow:-

“Statement of Sh.Mohit Nanda, Advocate counsel for the complainant bank:-

I do not want to proceed further with the present complaint and wish to withdraw the same at this stage. Hence, the same may be dismissed a withdrawn. Further bank has no objection in case if any FIR lodged under Section 174 A against the accused persons is quashed in accordance.

Dated: 19-04-2022”

The order dated 14.05.2022 is reproduced hereinbelow:-

*“CNR No: PBASO30179712019 CIS No: NACT/5335/2019
AXIS BANK LIMITED VS GURLAL SINGH etc.*

Present: Sh. Mohit Nanda Advocate for the complainant.

Complainant in person.

Accused along with defence counsel.

The case was fixed for consideration on the statement regarding compromise/withdrawal. In view of the statement furnished by the complainant/counsel according to which the matter has been settled between the parties and the complainant no longer wishes to pursue the present complaint, the complainant is granted the permission to withdraw the present complaint.

As the notice of accusation was yet to be served upon the accused, the accused stands discharged. The bail bonds and surety bonds stand discharged. The cash surety/FDR, if any, that may have been furnished by the accused, or any surety on behalf of the accused also be returned by the Reader after proper verification against proper receipt and acknowledgment. File be consigned to record room after due compliance.

Date of Order: 14.05.2022

*(Ankita Loomba)
Judicial Magistrate First Class
UID NO. PB00576*

Mandeep kaur stenographer

*Member: Ms. Supriya Nagpal,
Advocate
Member: Sh. Vikram Kumar
Attri, Advocate”*

A perusal of the above would show that the proceedings under

Section 138 of the N.I. Act have culminated as the matter has been

DAVINDER KUMAR compromised. Thus, the continuation of proceedings under section 174-A
2022.05.26 09:41
I attest to the accuracy and
authenticity of this order

IPC shall be abuse of the process of the Court.

Keeping in view the above said facts and circumstances as well as law laid down in the above said judgments, the present petition is allowed and the FIR no.119 dated 03.04.2022 registered under Section 174-A IPC at Police Station Division A, District Police Commissionerate Amritsar and all the subsequent proceedings arising therefrom are quashed and the order dated 28.02.2022 (Annexure P-7) is set aside.

No notice is being issued to respondent no.2 as the matter has already been compromised with respondent no.2-bank, as is apparent from the statement and the order which have been reproduced hereinabove and the FIR under Section 174-A IPC has been registered by the concerned SHO and issuance of notice to respondent no.2-complainant would unnecessary put undue burden of expenses on respondent no.2 and also delay the present proceedings. In case the facts which have been stated are found to be false, then it would be open to respondent no.2 to file an application for vacation of the present order.

(VIKAS BAHL)
JUDGE

May 23, 2022

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No