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

**CRM-M-25425-2022
DECIDED ON: 24.11.2022**

RAVINDER SINGH

.....PETITIONER

VERSUS

STATE OF HARYANA AND ANR.

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Kuldeep Sharma, Advocate for the petitioner.

Mr. P.K. Aggarwal, DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

This is a petition under Section 482 Cr.P.C. for quashing of the order dated 30.03.2019 (Annexure P-1), passed by learned Judicial Magistrate Ist Class, Jind, whereby the petitioner has been declared as proclaimed person and consequently quashing of FIR No.0083, dated 13.03.2020 (Annexure P-2), under Section 174-A IPC, 1860, registered at Police Station Jind Sadar, District Jind.

As per office report, notice issued to respondent No.2 has been received back served, however, no one has put in appearance on his behalf.

Learned counsel for the petitioner has submitted that in the present case, a complaint was filed by Naresh Kumar against the petitioner under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter to be referred as “the Act of 1881”) and in the said complaint, the petitioner was declared as proclaimed person vide order dated 30.03.2019 (Annexure P-1) and in the said order, direction was given to the SHO concerned for initiation of proceedings under Section 174-A of the IPC and accordingly,

the FIR in question (Annexure P-2) was registered on 13.03.2020 under

Section 174-A of the IPC, 1860.

Learned counsel for the petitioner has further submitted that complaint filed under Section 138 of the Act of 1881 was withdrawn vide order dated 09.03.2022, passed by learned Additional Chief Judicial Magistrate, Jind, in pursuance to the statement dated 09.03.2022 (Annexure P-3), made by the complainant.

Learned counsel for the petitioner has contended that once the proceedings under Section 138 of the Act of 1881 have been withdrawn, the continuation of proceedings under Section 174-A of IPC pursuant to the order declaring the petitioner as proclaimed person as well as directing the registration of the FIR in question, would be an abuse of the process of law.

Heard.

It is not in dispute that the petitioner was declared as proclaimed person vide order dated 30.03.2019 (Annexure P-1) in the proceedings under Section 138 of the Act of 1881 and it is on that account, FIR in question (Annexure P-2) under Section 174-A of the IPC was registered and in the proceedings under Section 138 of the Act of 1881, the said complaint stands withdrawn, vide order dated 09.03.2022 (Annexure P-4), of the Additional Chief Judicial Magistrate, Jind. The relevant portion of the said order is reproduced hereinbelow:-

*“Present: Sh. Deepak Chahal, APP for the State.
Complainant in person with counsel Sh. D.S.
Redhu.*

*File put up on application for withdrawing the
complaint, which has been withdrawn vide separate
statement. In view of statement, complaint is hereby*

treated as withdrawn. Intimation be sent to concerned quarters. File be consigned to record-room after due compliance.”

A perusal of the above order would show that the complaint under Section 138 of the Act of 1881, has been withdrawn in pursuance to the statement made by the complainant on the even date i.e. 09.03.2022.

A Coordinate 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.

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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.”

A perusal of the above decision would show that in a similar case where the FIR had been registered under Section 174-A of the IPC in view of the order passed in proceedings under Section 138 of the Act of 1881, while declaring the petitioner therein also as proclaimed offender, a Co-ordinate Bench after relying upon various judgments observed that once the main petition under Section 138 of the Act of 1881 stands withdrawn in view of an amicable settlement between the parties, the continuation of proceedings under Section 174-A of the 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 and also ordering quashing of the FIR under Section 174-A of the 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 of the IPC shall be an abuse of the process of court.

In the present case the complaint under Section 138 of the Act of 1881 has been withdrawn. Once the main complaint has been withdrawn, then the continuance of the prosecution in the FIR under Section 174-A of IPC would be an abuse of the process of law.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and the order dated 30.03.2019 (Annexure P-1), passed by learned Judicial Magistrate Ist Class, Jind, whereby the petitioner has been declared as proclaimed person and consequently quashing of FIR No.0083, dated 13.03.2020 (Annexure P-2), under Section 174-A IPC, 1860, registered at Police Station Jind Sadar, District Jind and all the subsequent proceedings arising therefrom, are hereby quashed.

SANDEEP MOUDGIL
JUDGE

24.11.2022
Poonam Negi