

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

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**CRM-M-27468-2022
Decided on : 04.07.2022**

Adarshpal Singh

. . . Petitioner

Versus

State of Haryana

. . . Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Shailender Singh Momi, Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

VIKAS BAHL, J. (Oral)

The present petition has been filed under Section 482 Cr.P.C. for quashing/setting aside FIR No. 118 dated 15.06.2022 under Sections 174-A of the Indian Penal Code, 1860 registered at Police Station Siwan, District Kaithal and all subsequent proceedings arising therefrom, and also for setting aside order dated 11.08.2021 (Annexure P-8) passed by the Additional Chief Judicial Magistrate, Kaithal whereby warrant of arrest has been issued against the petitioner, with a further prayer for setting aside the order dated 28.10.2021 (Annexure P-14) vide which the petitioner was declared as proclaimed person in FIR No. 882 dated 28.07.2016 under Section 135 of the Indian Electricity (Supply) Act, 2003 registered at PS. I and P.P.S. Jind, District Jind.

Learned counsel for the petitioner has submitted that the

FIR No. 882 dated 28.07.2016 under Section 135 of the Indian Electricity (Supply) Act, 2003 was registered against the petitioner on the complaint of the SDO, UHBVN, Siwan and in the said FIR, the petitioner was illegally declared as proclaimed person vide order dated 28.10.2021 and vide the same order, it was directed that an intimation regarding the same be sent to the SHO concerned and it is on the basis of the said order that the FIR No. 118 under Section 174-A has been registered. It is further submitted that the petitioner has been granted regular bail vide order dated 18.05.2022 in FIR No. 882 dated 28.07.2016 and the petitioner has joined the said proceedings. It is contended that a perusal of the said order would show that it has been noticed therein that the penalty amount, even as per the prosecution has already been deposited by the present petitioner and the same tantamounts to compounding of the offence. Learned counsel for the petitioner has relied upon the judgment of the coordinate Bench of this Court in *Ashok Madan Vs. State of Haryana and another* reported as **2020(4) RCR (Criminal) 87** and has argued that once the petitioner has joined the proceedings in the case FIR No. 882 dated 28.07.2016, then the continuation of proceedings under Section 174-A IPC would be an abuse of the process of the Court and thus, deserve to be quashed.

Notice of motion.

On advance notice, Mr. Munish Sharma, AAG, Haryana has appeared on behalf of the State and has opposed the present petition and has submitted that the FIR in question has been rightly registered in

pursuance of the order dated 28.10.2021 vide which the petitioner has been declared as proclaimed person. The aspect with respect to the petitioner having deposited the penalty amount has however not been disputed.

This Court has heard learned counsel for the parties and has perused the paperbook.

The FIR No. 882 dated 28.07.2016 under Section 135 of the Indian Electricity Act, 2003 was registered against the present petitioner for allegedly having caused the loss of Rs.2,28,702/- to the UHBVN. It is the case of the petitioner that the petitioner was not aware about the registration of the said FIR and the proceedings in the same and was illegally declared as proclaimed person vide order dated 28.10.2021 (Annexure P-14). A perusal of the said order would show that an intimation was sent to the SHO concerned and thus, the present FIR under Section 174-A IPC had been registered. A perusal of the order dated 18.05.2022 (Annexure P-15) would show that the present petitioner has been granted regular bail under Section 439 Cr.P.C. in FIR No. 882 dated 28.07.2016 and has joined the proceedings and it has been specifically noticed that the petitioner has deposited the penalty amount with UHBVN. This fact has also been admitted by the prosecution as is apparent from para 7 of the said order. It is further observed in the said order that the same tantamounts to compounding of the offence.

A coordinate Bench of this Court in 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 above judgment would show that where an FIR has been registered under Section 174-A of the IPC in view of an order passed in the proceedings in an earlier FIR and in the said case, the petitioner has joined the proceedings and has even paid the disputed amount, then the default of the petitioner would stand condoned and the effect of the order declaring the petitioner as a proclaimed person would dissipate and the ground for registration of the FIR under Section 174-A IPC would cease to exist.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and FIR No. 118 dated 15.06.2022 under

Sections 174-A of the Indian Penal Code, 1860 registered at Police Station Siwan, District Kaithal and all subsequent proceedings arising therefrom as well as the order dated 28.10.2021 (Annexure P-14) passed by Additional Civil Judge, Kaithal declaring the petitioner as proclaimed person are set aside/quashed.

(VIKAS BAHL)
JUDGE

July 4th, 2022
Mehak

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No