

122

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

CRM-M-28537-2022 (O&M)
Date of decision : 08.07.2022

Mohit @ Mohit Bhupal

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Ms. Nisha Rana, Advocate for
Mr. Umesh Sharma, Advocate for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

CRM-22913-2022

This is an application filed for grant of leave under Rule 3/A(1) of Chapter VI, Part B, Volume V of Punjab and Haryana High Court Rules and Orders to file the present petition.

In view of averments made in the application, the same is allowed and leave is granted under the aforesaid Rules and Orders to file the present petition.

Main case

This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.14 dated 23.01.2022 registered under Section 174-A of

the Indian Penal Code, 1860 (hereinafter to be referred as “the IPC”) at Police Station Mahilpur, District Hoshiarpur alongwith all the subsequent proceedings arising therefrom.

Learned counsel for the petitioner has submitted that FIR No.113 dated 26.06.2021 was registered under Sections 323, 324, 148, 149 of the IPC (Sections 325 and 326 of the IPC have been added later on) at Police Station Mahilpur, District Hoshiarpur and it is during the course of the proceedings of said FIR that the petitioner was declared as proclaimed offender vide order dated 07.01.2022 (Annexure P-2) and the Judicial Magistrate Ist Class, Garhshankar was pleased to direct that intimation be sent to the concerned Police Station and it is on the basis of the said order that the present FIR under Section 174-A of the IPC has been registered. It is further submitted that in the said case (FIR No.113), the petitioner has been granted regular bail vide order dated 07.04.2022 (Annexure P-3) passed in CRM-M-13885-2022 and the matter has been compromised between the parties vide compromise deed dated 27.04.2022 (Annexure P-4) and FIR No.113 has been quashed on the basis of compromise by this Court vide order dated 31.05.2022 (Annexure P-5) passed in CRM-M-19955-2022 and the connected matter. It is argued that once the main FIR has been quashed then keeping the present petition alive would be an abuse of process of the Court.

Notice of motion to respondent No.1 only.

On advance notice, Mr. Sarabjit S. Cheema, AAG, Punjab, appears and accepts notice on behalf of the State and has submitted that he is fully prepared to argue the matter and assist this Court. Although, he has opposed the present petition but however, the factual issue raised by the

learned counsel for the petitioner has not been disputed.

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

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.*

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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 judgment 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 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 as well as 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, FIR No.113 dated 26.06.2021 was registered under Sections 323, 324, 148, 149 of the IPC (Sections 325 and 326 of the IPC have been added later on) at Police Station Mahilpur, District Hoshiarpur against the present petitioner and during the course of the proceedings in said FIR, the petitioner was declared as proclaimed offender vide order dated 07.01.2022 (Annexure P-2) in which, the Judicial Magistrate Ist Class, Garhshankar had directed that necessary intimation be sent to the concerned Police Station and it is in pursuance of the said order that the present FIR under Section 174-A of the IPC has been registered. A perusal of the order dated 07.04.2022 (Annexure P-3) would show that the petitioner has been granted regular bail in FIR No.113 and in the said proceedings, compromise has been effected between the parties and it is on the basis of the said compromise, FIR No.113 has been quashed by this Court vide order dated 31.05.2022 (Annexure P-5). Since, the present FIR was registered on account of non-appearance in the trial Court in FIR No.113 which has ultimately been quashed, thus, in view of law laid down in the abovesited

judgments, further proceedings in the present FIR would be an abuse of process of the Court.

Keeping in view the abovesaid facts and circumstances, as well as the law laid down in the abovesaid judgments, the present petition is allowed and FIR No.14 dated 23.01.2022 registered under Section 174-A of the IPC at Police Station Mahilpur, District Hoshiarpur alongwith all the subsequent proceedings arising therefrom are quashed/set aside.

In the present case, although, the petitioner has made Pawandeep Singh as respondent No.2 but the same is not necessary party as the said respondent No.2 is not the complainant in the impugned FIR and at any rate, he was complainant in FIR No.113, in which, compromise has been effected and this Court after hearing the counsel for respondent No.2 and considering the report of the Illaqa Magistrate with respect to the said compromise, had quashed FIR No.113 vide order dated 31.05.2022 (Annexure P-5) and thus, issuance of notice to respondent No.2 would only result in unnecessary delay in the proceedings.

All the pending miscellaneous applications, if any, stand disposed of in view of the abovesaid judgment.

08.07.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No