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

CRM-M-31868-2022

Date of decision : 25.07.2022

Harpreet Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Amit Arora, Advocate for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.245 dated 23.09.2021 registered under Section 174-A of the Indian Penal Code, 1860 (hereinafter to be referred as “the IPC”) at Police Station City Tarn Taran, District Tarn Taran and all the subsequent proceedings arising therefrom.

Learned counsel for the petitioner has submitted that in the present case, a complaint under Section 138 read with Section 142 of the Negotiable Instruments Act, 1881 (hereinafter to be referred as “the Act of 1881”) was filed by one Sarbjeet Singh-complainant, with respect to dishonour of cheque dated 27.07.2018 for an amount of Rs.1,00,000/- and in the said proceedings, the petitioner was never served and has relied upon

zimni orders which have been reproduced in paras 3 to 6 of the petition. It is further submitted that the petitioner was illegally declared as proclaimed offender vide order dated 13.09.2021 with further direction to the concerned SHO to register an FIR and thus, in pursuance of the said order, the FIR in question was registered under Section 174-A of the IPC. It is contended that when the petitioner learnt about the said proceedings, the petitioner compromised the matter with the complainant and the complainant has withdrawn his complaint filed under Section 138 of the Act of 1881 as is apparent from order dated 18.04.2022 (Annexure P-3) and has further contended that thus, the continuation of the proceedings under Section 174-A of the IPC is an abuse of the process of law.

On the other hand, learned State Counsel has opposed the present petition and submitted that the FIR in question has been registered in pursuance of order dated 13.09.2021 passed by the Judicial Magistrate Ist Class, Tarn Taran.

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 considerations for allowing the petition and setting aside the order declaring the petitioner therein as a 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, a complaint under Section 138 read with Section 142 of the Act of 1881 was filed by one Sarbjeet Singh against the

present petitioner with respect to dishonour of cheque dated 27.07.2018 of an amount of Rs.1,00,000/- and a perusal of the zimni orders, which have been reproduced in paras 3 to 6 of the petition, would prima facie show that the petitioner was never served. Vide order dated 13.09.2021, the petitioner was illegally declared as proclaimed offender with further direction to the concerned SHO to register an FIR and in pursuance of the said order, the present FIR under Section 174-A of the IPC was registered. On 18.04.2022, compromise has been effected between the said Sarbjeet Singh and the present petitioner and the said Sarbjeet Singh has withdrawn his complaint. Relevant portion of order dated 18.04.2022 passed by the Judicial Magistrate Ist Class, Tarn Taran is reproduced hereinbelow:-

“File be again put up after lunch. Report of Ahlmad perused. An application for giving directions to the concerned Divisional Regional Manager, Indian Railway, Ferozpur to release the salary of the accused Harpreet Singh son of Dalip Singh filed by counsel for complainant. Same is taken on record. Application allowed.

Complainant Sarabjeet Singh stated that he does not want to pursue the present complaint further as he has compromised the matter with the accused. As such, the same may kindly be dismissed as withdrawn, vide his separate statement recorded.

In view of statement of complainant Sarabjeet Singh present complaint stands dismissed as withdrawn. Now there is no need to further attach the salary of accused Harpreet Singh son of Dalip Singh. Let, Divisional Regional Manager, Indian Railway, Ferozpur is directed to release the salary of accused Harpreet Singh son of Dalip Singh. So Ahlmad is directed to send intimation to concerned

*department. File be consigned to the judicial record room,
after due compliance.*

Sd/-(Tarun Kumar)

[UID No.PB0631]

CJJD cum JMIC

Tarn Taran

Order dated : 18.04.2022.”

Once the main case under Section 138 of the Act of 1881 has been withdrawn, keeping the present FIR under Section 174-A of the IPC alive, would be an abuse of the process of law.

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.245 dated 23.09.2021 registered under Section 174-A of the IPC at Police Station City Tarn Taran, District Tarn Taran and all the subsequent proceedings arising therefrom are quashed/set aside.

25.07.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No