

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-33297-2022

Date of decision : 01.08.2022

Bandgar Sidhnath @ Siddhanath Dada Bandgar

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Kartik, Advocate
for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. for quashing of FIR no.608 dated 21.10.2021 registered under Section 174-A IPC at Police Station Hisar City, District Hisar and order dated 04.09.2019 passed in case titled as “Super Seeds vs. Harit Kranti and others”, case no. N Act/2418/2018 and CIS no.N Act/513/2018 vide which the petitioner was declared as proclaimed person.

Learned counsel for the petitioner has submitted that M/s Super Seeds Private Limited through Sh. Anil had instituted a complaint under Section 138/147 of the Negotiable Instruments Act, 1881 (in short “N.I. Act”) and although no notice was served upon the petitioner, the petitioner was declared a proclaimed person vide order dated 04.09.2019 and in the said order, direction was issued to the concerned SHO to register a case under Section 174-A IPC and on the basis of same, present FIR under

petitioner came to know about the above said complaint, he approached the complainant and ultimately the case was withdrawn and has relied upon the order dated 19.07.2022 in this regard. It is further submitted that once the proceedings under Section 138 N.I. Act have been withdrawn, then the present proceedings under Section 174-A IPC also deserve to be quashed.

Learned State counsel, on the other hand, has opposed the present petition and has submitted that the present FIR has been registered after the directions have been issued by the Judicial Magistrate Ist Class, Exclusive Court N.I. Act, Hisar vide order dated 04.09.2019.

This Court has heard 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 (CrI.) 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 IPC in view of the order passed in proceedings under Section 138 of the Act, declaring the petitioner therein as proclaimed person, 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 an abuse of the process of court.

In the present case, the proceedings under Section 138 N.I. Act were instituted by M/s Super Seeds Private Limited through Sh. Anil and in the said proceedings it is the case of the petitioner that he was never served and he was illegally declared as proclaimed person vide order dated 04.09.2019. A perusal of the order dated 04.09.2019 would show that a direction was given to the concerned SHO to register the FIR under Section 174-A IPC and accordingly, the present FIR was registered on 21.10.2021 under Section 174-A IPC. A perusal of the order dated 19.07.2022 passed in the complaint under Section 138 of the N.I. Act would show that the present petitioner had surrendered before the Court and had moved an application for surrender-cum-bail and the same was allowed. In the said order, it was also recorded that the complainant has given statement that he had compromised the matter and he does not want to pursue the complaint and wishes to withdraw the complaint and accordingly, the complaint under Section 138 of the N.I. Act was withdrawn and thus, the present FIR under Section 174-A IPC also deserves to be quashed.

Keeping in view the above said facts and circumstances and in view of the law laid down in the above said judgments, the present petition

174-A IPC at Police Station Hisar City, District Hisar and order dated 04.09.2019 and all the subsequent proceedings arising therefrom are hereby quashed.

(VIKAS BAHL)
JUDGE

August 01, 2022
Davinder Kumar

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