

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-34909-2022

Date of decision : 08.08.2022

Kulwant Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Siddharth Gupta, Advocate
for the petitioner.

Mr.Sarabjit Singh Cheema, AAG, Punjab.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. for quashing of
FIR no.0025 dated 02.04.2019 registered under Section 174-A IPC at
Police Station Phool, District Bathinda.

Learned counsel for the petitioner has submitted that the
petitioner is also challenging the order dated 11.03.2019 passed in
complaint bearing COMA no.289 of 2017 dated 03.10.2017 titled as “Jagjit
Singh vs. Kulwant Singh”, declaring the present petitioner as proclaimed
person but has submitted that since the petitioner had appeared
subsequently in the proceedings under Section 138/142 of the Negotiable
Instruments Act, 1881 (in short “N.I. Act”), thus, the said order is not in
operation any longer. It is further submitted that in the present case, a
complaint under Section 138 N.I. Act was filed by Jagjit Singh against the
petitioner with respect to the dishonour of cheque of Rs.1 lac and in the said

the complaint even the name of the petitioner's father has been wrongly mentioned inasmuch as it is stated that the petitioner is the son of Bhura Singh whereas, the petitioner is the son of Chand Singh (as is apparent from the memo of parties of present petition) and even the address of the petitioner has been wrongly mentioned and it is on account of the same that the petitioner never found out about the said proceedings. It is also submitted that the petitioner was thus, illegally declared as proclaimed person vide order dated 11.03.2019 (Annexure P-4) and the concerned SHO was also directed to register an FIR under Section 174-A IPC and on account of the same, present FIR has been registered. It is stated that when the petitioner learnt about the said proceedings, the petitioner appeared in the complaint under Section 138 N.I.Act and was released on interim bail vide order dated 21.11.2019 (Annexure P-7) and thereafter even compromised the matter with the complainant and the statement of the complainant was recorded on 07.05.2021 (Annexure P-9) to the effect that the compromise has been effected and the cheque amount has been received and he does not want to proceed with the said complaint under Section 138 N.I. Act and subsequently vide order dated 10.07.2021 (Annexure P-10) the complaint was withdrawn. It is submitted that the petitioner has already been granted bail in the present FIR vide order dated 07.12.2019 (Annexure P-8). It is stated that in view of the same , the continuation of the present FIR is an abuse of the process of the Court.

Learned State counsel, on the other hand, has opposed the present petition and has submitted that the present FIR has been rightly registered in pursuance of the order passed on 11.03.2019 by the Sub Divisional Judicial Magistrate, Phul and thus, the present petition deserves

to be dismissed.

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.

xxx xxx xxx

*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.*

xxx xxx xxx

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 would be an abuse of the process of court.

In the present case, the complaint was filed by one Jagjit Singh under Section 138 N.I. Act with respect to a cheque of Rs.1 lac against the present petitioner. It is the case of the petitioner that the name of the father of the petitioner as well as address was wrongly mentioned and in view of the same, the petitioner had been illegally declared as proclaimed person vide order dated 11.03.2019 and vide the same order, the police was directed to register FIR under Section 174-A IPC. It is further submitted that at the very instance when the petitioner learnt about the proceedings, the petitioner appeared before the Court where the complaint under Section 138 N.I. Act was pending and vide order dated 21.11.2019 (Annexure P-7) was granted interim bail and ultimately the matter was compromised with the complainant and the complainant made statement on 07.05.2021 (Annexure P-9) to the effect that he has received the cheque amount and he does not want to continue with the complaint and accordingly, vide order dated 10.07.2021, the complaint was withdrawn. The petitioner has even been granted interim bail in the proceedings under Section 174-A IPC vide order dated 07.12.2019 (Annexure P-8). A perusal of the order dated 10.07.2021 would show that the complaint under Section 138 N.I. Act have

07.05.2021. Once the proceedings under Section 138 N.I. Act have been withdrawn, then 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 is allowed and the FIR no.0025 dated 02.04.2019 registered under Section 174-A IPC at Police Station Phool, District Bathinda and order dated 11.03.2019 passed in complaint bearing COMA no.289 of 2017 dated 03.10.2017 titled as “Jagjit Singh vs. Kulwant Singh”, and all the subsequent proceedings arising therefrom are hereby quashed.

(VIKAS BAHL)
JUDGE

August 08, 2022
Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No