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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

1. CRM-M-38433-2020
DECIDED ON: 9th NOVEMBER, 2022

RAVINDER KAUR

PETITIONER

VERSUS

STATE OF HARYANA AND ANOTHER

RESPONDENTS

AND

2. CRM-M-37293-2020

SUKHVINDER KAUR

PETITIONER

VERSUS

STATE OF HARYANA

RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Varun Dhawan, Advocate
for the petitioner in both the petitions.

Mr. Surender Singh, AAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

By this common order, this Court intend to dispose of both the
afore-said petitions as they have been arisen out of the same complaint.

Prayer in both these petitions is for quashing of order dated
12.12.2019 (Annexure P-4) passed by Judicial Magistrate Ist Class,
Ambala, whereby petitioner(s) has been declared as proclaimed offender

with further prayer for quashing of FIR Nos. 108 and 109, dated 16.02.2020 (Annexure P-5), under Section 174-A IPC, registered at Police Station Mahesh Nagar, Ambala and all consequential criminal proceedings arising therefrom.

Learned counsel for the petitioner has submitted that in the present case, a complaint was filed by Pankaj Sethi against the petitioners Ravinder Kaur and Sukhvinder Kaur under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter to be referred as “the Act of 1881”) and in the said complaint, the petitioners were declared as proclaimed person vide order dated 12.12.2019 (Annexure P-4) and in the said order, direction was given to the SHO concerned for initiation of proceedings under Section 174-A of the IPC and accordingly, the FIRs in question (Annexure P-5) was registered on 16.02.2020 under Section 174-A of the IPC.

Learned counsel for the petitioners has further submitted that complaint filed under Section 138 of the Act of 1881 was dismissed in default on 10.10.2020 and all the accused persons including the petitioners were acquitted.

Learned counsel for the petitioner(s) has placed reliance upon the order dated 13.12.2021, passed by a co-ordinate Bench of this Court in CRM-M-51911-2021, decided on 13.12.2021 titled as **“Narender Singh and State of Haryana and others”** wherein it has been held that once the main case is dismissed for want of prosecution continuation of proceedings under Section 174-A IPC shall be abuse of process of law.

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 174-A 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 the complaint under Section 138 of the Act of 1881 has been dismissed for want of prosecution. Once the impugned complaint has been dismissed for want of prosecution and all the accused stands acquitted, then the continuance of the prosecution in the FIR under Section 174-A of IPC would be an abuse of the process of Court.

Keeping in view the above-said facts and circumstances, the present petition is allowed and the order dated 12.12.2019 (Annexure P-4) passed by the Judicial Magistrate Ist Class, Ambala, whereby the petitioners had been declared as proclaimed person and FIR Nos.108 &

109, dated 16.02.2020 (Annexure P-5) registered under Section 174-A of the Indian Penal Code, 1860 (hereinafter to be referred as “the IPC”) at Police Station, Mahesh Nagar, Ambala and all the subsequent proceedings arising therefrom, are hereby quashed qua the petitioners.

A copy of this order be placed on the file of another connected petitions.

**SANDEEP MOUDGIL
JUDGE**

9th NOVEMBER, 2022.
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| 1. Whether speaking/ reasoned : | Yes / No |
| 2. Whether reportable : | Yes / No |