

215 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-33605-2019

Date of Decision : May 13, 2022

Rahul SharmaPetitioner

Versus

State of HaryanaRespondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Abhinav Sood, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J.

Prayer is this petition is for quashing of the FIR No.471 dated 31.8.2018, under Section 174-A IPC, registered at Police Station Shivaji Nagar, Gurugram and all other subsequent proceedings emanating therefrom and setting aside order dated 13.7.2018 and dated 6.12.2018 vide which the petitioner has been declared as proclaimed person.

On 21.8.2019, the following order was passed :-

"Prayer in this petition is for quashing of FIR No.471 dated 31.08.2018 registered under Section 174-A IPC at Police Station Shivaji Nagar, Gurugram and all other subsequent proceedings emanating therefrom and for setting-aside the orders dated 13.07.2018 and dated 06.12.2018 vide which the petitioner has been declared as proclaimed person.

Counsel for the petitioner has submitted that during the pendency of FIR No.107 dated 14.03.2016 registered under Section 68/1/14 of the Punjab Excise Act at Police Station Sector 40, Gurugram, the petitioner was declared as proclaimed person and on the direction of the trial Court another FIR No.471 dated 31.08.2018 at Police Station Shivaji Nagar, Gurugram, was registered against the petitioner under Section 174-A IPC. It is further submitted that in FIR No.471 dated 31.08.2018, the petitioner has appeared and on the basis of his confession, he was held guilty and was admonished on payment of costs of Rs.1,000/-, which he has already paid. It is further submitted that the petitioner could not appear in the present FIR as he was never served at the ordinary place of residence as per the procedure prescribed under Sections 82/83 Cr.P.C. It is further argued that immediately on coming to know about the present FIR, the petitioner has already appeared in FIR No.107 dated 14.03.2016, where he has been admonished.

Notice of motion for 26.11.2019.

In the meantime, the proceedings before the trial Court shall remain stayed."

Counsel for the petitioner submits that the petitioner appeared before the trial Court in FIR No.471 dated 31.8.2018, where he has already been admonished on furnishing Probation Bonds of Rs.10,000/-.

Counsel for the petitioner has relied upon order dated 22.7.2019 passed in CRM-M-36363-2017, wherein in similar circumstances, the FIR was quashed.

Counsel for the petitioner has submitted that once the proceedings in FIR No.471 dated 31.8.2018 stands terminated, the pendency of the proceedings in FIR under Section 174-A IPC, is nothing but the misuse of process of law.

Reply by way of affidavit of the Assistant Commissioner of Police, City Gurugram is on record, in which it is admitted that the petitioner was released on Probation Bonds of Rs.10,000/- as per judgment dated 31.5.2019, in case FIR No.107/2016 under Sections 68/1/14 of the Punjab Excise Act registered at Police Station, Sector 40, Gurugram.

After hearing the learned counsel for the parties, I find merit in the present petition.

Admittedly, the proceedings of FIR No.107/2017 during pendency of which the trial Court has directed to register the present FIR, stands decided.

Once the proceedings in FIR No.471 dated 31.8.2018 has been terminated, I find, in view of the judgment of **Vikas Sharma Vs. Gurpreet Singh Kohli and another**, 2019(3) L.A.R. 584; **Microqual Techno Limited and others Vs. State of Haryana and another**,

2015 (32) RCR (Criminal) 790 and **Rajneesh Khanna Vs. State of Haryana and another**, 2017(3) L.A.R. 555, that the prosecution of the petitioner in the present FIR under Section 174-A IPC shall be nothing but misuse of process of law.

In view of the same, the present petition is allowed and the impugned FIR No.471 dated 31.8.2018 under Section 174-A IPC, registered at Police Station Shivaji Nagar, Gurugram and all the other subsequent proceedings arising therefrom are, hereby, quashed.

**(ARVIND SINGH SANGWAN)
JUDGE**

May 13, 2022
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Whether speaking/reasoned : YES / NO

Whether reportable : YES / NO