

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

CRM-M-39892-2022

Date of decision: 28.10.2022

Rohit Yadav

.....Petitioner

versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Mrigank Sharma, Advocate
for the petitioner.

Mr. Neeraj Poswal, A.A.G., Haryana.

NAMIT KUMAR, J. (ORAL)

This petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.390 dated 22.11.2021 under Section 174-A of IPC registered at Police Station Mahesh Nagar, District Ambala (Annexure P-1) and all consequential proceedings thereto with a further prayer to quash orders dated 07.03.2018 (Annexure P-2) passed by the learned JMIC, Ambala vide which the petitioner has been declared to be a proclaimed person in Criminal Case No.86 of 2017 registered in pursuance to FIR No.112 dated 19.04.2017 (Annexure P-3) offence under Sections 406/420 of IPC registered at Police Station Mahesh Nagar, District Ambala which has now been compounded vide order dated 09.08.2022 (Annexure P-4) by the Court of JMIC, Ambala.

On 02.09.2022, notice of motion was issued and the following order was passed:-

*“This petition has been filed under Section 482
Cr.P.C. for quashing of FIR No.390 dated 22.11.2021*

under Section 174-A of IPC registered at Police Station Mahesh Nagar, District Ambala (Annexure P-1) and all consequential proceedings thereto with a further prayer to quash orders dated 07.03.2018 (Annexure P-2) passed by the learned JMIC, Ambala vide which the petitioner was declared to be a proclaimed person in Criminal Case No.86 of 2017 registered in pursuance to FIR No.112 dated 19.04.2017 (Annexure P-3) offence under Sections 406/420 of IPC registered at Police Station Mahesh Nagar, District Ambala which has now been compounded vide (Annexure P-4) dated 09.08.2022 by the Court of JMIC, Ambala.

Notice of motion.

Mr. Rupinder Singh Jhand, Addl.A.G., Haryana puts in appearance and accepts notice on behalf of respondent No.1-State. Copy of the paper book be supplied during the course of the day.

Adjourned to 28.10.2022.

Till the next date of hearing, trial Court is directed to adjourn the matter beyond the date fixed in the present case.”

Reply by way of an affidavit of Ram Kumar, HPS, Deputy Superintendent of Police, Ambala Cantt District Ambala has been filed on behalf of respondent No.1-State, which is taken on record.

At this stage, Mr. Abhishek Sobti, Advocate has put in appearance and filed power of attorney on behalf of respondent No.2, which is taken on record.

Learned counsel for the petitioner submits that the petitioner was working in the Merchant Navy since 2013 and was posted in Malaysia and thus, he was neither aware of the pendency of the FIR dated

19.04.2017 (Annexure P-3) nor he was aware of the proclamation order dated 07.03.2018 (Annexure P-2). He further submits that the petitioner has lost his job and thereafter came to know about the pendency of the FIR against him and contacted respondent No.2 and surrendered before the trial Court on 21.11.2021 and he was sent to the judicial custody and was subsequently released on regular bail. Thereafter, he entered into a compromise dated 09.08.2022 (Annexure P-6) with respondent No.2 and moved an application for compounding of offence and the same was allowed by the Court of learned JMIC, Ambala vide order dated 09.08.2022 and as such the FIR dated 19.04.2017 (Annexure P-3) and the consequent trial qua the petitioner was closed after compounding and the petitioner was acquitted. However, he was booked in FIR No.390 dated 22.11.2021 under Section 174-A IPC, upon his surrendering before the Id. Trial Court. He further contends that the petitioner applied for regular bail and the same was granted vide order dated 26.11.2021. Counsel further submits that main dispute in FIR No.112 dated 19.04.2017 filed under Sections 406, 420 IPC has been settled and the petitioner has since been acquitted therein out of which, proceedings under Section 174-A IPC have emerged, therefore, the present proceedings under Section 174-A IPC arising out of the original proceedings should also come to an end. He also submits that procedure given under Section 82 Cr.P.C. has not been complied with by the trial Court in right manner. Therefore, the orders declaring him proclaimed offender passed by the trial Court is not sustainable in the eyes of law. To support his contention he relies upon the judgment of this Court passed in '**Aditya Goyal vs. State of Haryana**' CRM-M-11269-2019 decided on 07.05.2019.

In the above said judgment, this Court has quashed the proceedings under Section 174-A of IPC where the main proceedings have already been concluded. The relevant portion from **Aditya Goyal's case (Supra)** is as under:-

“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 174-A of IPC shall be nothing but an abuse of the process of law.

Learned State counsel, on instructions from the Investigating Officer, has not disputed the factual position.

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

Since the main complaint filed by the complainant under Section 138 of the N.I. Act itself stands dismissed as withdrawn by the trial Court keeping in view the fact that petitioner has cleared the entire dues and on the direction of this Court, the petitioner has already appeared before the Investigating Officer and has also deposited the cost of Rs.10,000/- with the Illaqa Magistrate, this Court is of the opinion that continuation of proceedings under Section 174-A IPC shall be an abuse of process of law.

Accordingly, in view of the facts and circumstance of the case and also in view of the judgments relied upon by the petitioner, this petition is allowed and order dated 03.12.2018 (Annexure P-1), passed by the trial Court in Criminal Complaint No. 1624/2017 dated 12.09.2017, filed under Section 138 of the N. I. Act, vide which, the petitioner has been declared a proclaimed person as well as other consequential proceedings arising therefrom including FIR No. 66 dated 01.02.2019, registered under Section 174-A IPC at

Police Station Jagadhri City, District Yamuna Nagar (Annexure P-2) are hereby quashed.”

To the same effect, is the judgment passed in '**Lakhwinder Singh versus State of Punjab**' being CRM-M-37155-2021 decided on 16.11.2021.

Learned State counsel as well as learned counsel for respondent No.2 have not disputed the fact that the matter has been compromised between the parties and main proceedings have already been culminated into acquittal of the petitioner.

I have heard learned counsel for the parties and perused the records.

A perusal of order dated 09.08.2022 passed by the JMIC, Ambala, makes it clear that the matter has been settled between the parties. Consequently, no fruitful purpose would be served in continuing the proceedings under Section 174-A of IPC.

Keeping in view the above said facts and circumstances as well as the settled law referred to above, the present petition is allowed and FIR No.390 dated 22.11.2021 under Section 174-A of IPC registered at Police Station Mahesh Nagar, District Ambala (Annexure P-1) and all subsequent proceedings arising therefrom, are hereby quashed and also the orders dated 07.03.2018 (Annexure P-2) passed by Ld. JMIC, Ambala whereby petitioner has been declared as a proclaimed person is also set aside.

28.10.2022
ps-I

(NAMIT KUMAR)
JUDGE

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