

123 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-41103-2022
DECIDED ON: 8th SEPTEMBER, 2022

YOGESH GARG

.....PETITIONER

VERSUS

STATE OF HARYANA AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Ishan Singh Cooner, Advocate
for the petitioner.

SANDEEP MOUDGIL, J

The instant petition under Section 482 Cr.P.C has been filed seeking quashing of FIR No. 93, dated 15.02.2020 (Annexure P-1), under Section 174-A IPC, Police Station Ambala Cantt, District Ambala and order dated 20.07.2019 (Annexure P-2) passed by learned Judicial Magistrate Ist Class declaring the petitioner as proclaimed person in a complaint bearing No. Coma/910/2017, under Section 138 of Negotiable Instruments Act (for short 'Act') titled as **“Manmohan Singh vs. Yogesh Singh”**, alongwith all subsequent proceedings as the main complaint under Section 138 of the Act was dismissed as withdrawn vide order dated 01.07.2022 (Annexure P-3).

Brief facts of the case are that respondent No.2 filed a complaint under Section 138 of the Negotiable Instruments Act against the petitioner on account of dishonouring of a cheque.

During the pendency of the said complaint the petitioner was declared as proclaimed person vide order dated 20.07.2019 (Annexure P-2) and it was also directed that an FIR be got registered in this regard under Section 174-A IPC.

In pursuance to the said order, the impugned FIR No.93, dated 15.02.2020 (Annexure P1) was registered against the petitioner.

Learned counsel for the petitioner submits that the dispute between the petitioner and respondent No.2 was resolved in Lok Adalat and the petitioner had already paid the agreed amount to the complainant and the complaint filed by respondents No.2 against the petitioner was dismissed as withdrawn due to dispute being compromised in Daily Lok Adalat vide order dated 01.07.2022 (Annexure P-3). He submits that in view of the withdrawal of main complaint case, the order dated 20.07.2019 declaring the petitioner as proclaimed person along-with FIR No. 93, dated 15.02.2020, under Section 174-A IPC registered at Police Station Ambala Cantt., District Ambala is liable be quashed.

Learned counsel for the petitioner has placed reliance upon the orders dated 20.07.2022 and 24.08.2022 respectively, passed by a co-ordinate Bench of this Court in CRM-M-46062-2017, titled as ***“Jatin Dhawan and another versus State of Haryana and another”*** and CRM-M-12534-2022, titled as ***“Krishan Kumar versus State of Haryana and another”***, wherein it has been held that once the main case is dismissed as withdrawn, the continuation of proceedings under Section 174-A IPC shall be an 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 clearly shows 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 as withdrawn. Once the impugned complaint has been dismissed as withdrawn and all the accused stand acquitted, then the continuance of the prosecution in the FIR lodged 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 20.07.2019 (Annexure P-2) passed by the Judicial Magistrate Ist Class, Ambala, whereby the petitioner had been declared as proclaimed person and FIR No. 93, dated 15.02.2020 (Annexure P-1) registered under Section 174-A IPC at Police Station Ambala Cantt, Ambala with all the subsequent proceedings arising therefrom, are hereby quashed qua the petitioner.

8th SEPTEMBER, 2022
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(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>