

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

CRM-M-48071-2021

Date of decision : 23.09.2022

Rahul Dureja and another

..... Petitioners

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Kunwar Rajan, Advocate
for the petitioners.

Mr. Arun Gupta, AAG, Punjab.

PANKAJ JAIN, J. (Oral)

This is a petition filed under Section 482 Cr.P.C. seeking quashing of FIR No.190 dated 04.11.2017, registered for the offence punishable under Section 174-A of IPC at Police Station Sadar, Sri Muktsar Sahib.

2. Counsel for the petitioners submits that the petitioners were summoned to face trial in a complaint filed under Section 138 of the Negotiable Instruments Act (for short 'N.I. Act'). In the said proceedings, they were declared 'proclaimed persons'. As a consequence thereto, present FIR dated 04.11.2017 under Section 174-A of IPC was registered. He further submits that apart from the fact that the proclamation and proceedings thereto were in teeth of bare provisions as contained in Chapter VI of the Code, the fact remains that complaint filed under Section 138 of the N.I. Act now stands compromised and withdrawn.

3. Counsel for the petitioners has produced copy of order dated passed by ACJM, Sri Muktsar Sahib dated 16.08.2022 to substantiate his plea w.r.t. there being compromise between the complainant and the petitioners in the proceedings under Section 138 of the N.I. Act. The question as to whether proceedings under Section 174-A of IPC can be allowed to continue after the principle complaint under Section 138 of the N.I. Act already stands compromised is more *res integra* and has been answered by Co-ordinate Bench of this Court in **CRM-M-43813-2018** titled as **“Baldev Chand Bansal Vs. State of Haryana and another”** vide order dated 29.01.2019, which 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.”

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*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.*

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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.”

4. Same is the view of another Co-ordinate Bench in the **“Ashok Madaan vs. State of Haryana and another” reported as 2020 (4) RCR (Criminal) 87**, wherein it has been held that:

“No doubt, the learned counsel for the respondent has vehemently argued that the offence under Section 174-A 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.”

5. Keeping in view the facts and circumstances of the present case and in view of the principles settled by this Court, the present petition is allowed. FIR No.190 dated 04.11.2017, registered for the offence punishable under Section 174-A of IPC at Police Station Sadar, Sri Muktsar Sahib is hereby quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

23.09.2022

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Whether speaking/reasoned : Yes

Whether Reportable : No