

125

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

CRM-M-43995-2022

Date of decision : 22.09.2022

Amritpal Singh and another

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Amandeep Singh Manaise, Advocate for the petitioners.

Mr. Dhruv Sihag, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.254 dated 17.07.2022 registered under Section 174-A of the Indian Penal Code, 1860 (hereinafter to be referred as “the IPC”) at Police Station Sarai Khawaja, District Faridabad and all the subsequent proceedings arising therefrom.

Learned counsel for the petitioners has submitted that in the present case, a complaint was filed by M/s OM Metals Infraprojects Limited under Section 138 read with Sections 141 and 142 of the Negotiable Instruments Act, 1881 (hereinafter to be referred as “the Act of 1881”) against the present petitioners and other co-accused and in the said proceedings, the petitioners were declared as proclaimed person vide order

dated 13.05.2022 (Annexure P-3) and vide same order, the Judicial Magistrate Ist Class, had issued notice to the SHO of the concerned Police Station to register the case and in pursuance thereof, the FIR in question has been registered. It is further submitted that on 31.08.2022, the complainant has withdrawn its complaint as the compromise was effected between the petitioners and the complainant. It is contended that in the said circumstances, the continuation of the proceedings under Section 174-A of the IPC would be an abuse of the process of the Court and the same are liable to be quashed/set aside.

Notice of motion.

On advance notice, Mr. Dhruv Sihag, AAG, Haryana, appears and accepts notice on behalf of the State and has submitted that he is fully prepared to argue the matter and assist this Court. He has opposed the present petition and has submitted that the impugned order passed declaring the petitioners as proclaimed person as well as registration of FIR are in accordance with law and thus, deserve to be upheld.

This Court has heard the learned counsel for the parties and has perused the paper book.

A co-ordinate Bench of this Court in CRM-M-43813-2018 titled as “Baldev Chand Bansal vs. State of Haryana and another”, decided on 29.01.2019 has 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.”

A perusal of the above judgment would show that in a similar case where the FIR had been registered under Section 174-A of the IPC in view of the order passed in proceedings under Section 138 of the Act of 1881, while declaring the petitioner therein as proclaimed offender in the said proceedings, a Co-ordinate Bench after relying upon various judgments observed that once the main petition under Section 138 of the Act of 1881 stands withdrawn in view of an amicable settlement between the parties, the continuation of proceedings under Section 174-A of the IPC is nothing but

an abuse of the process of law. The said aspect was one of the main consideration for allowing the petition and setting aside the order declaring the petitioner therein as proclaimed person as well as quashing of the FIR under Section 174-A of the IPC.

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 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.”

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, a complaint under Section 138 read with Sections 141 and 142 of the Act of 1881 was filed by M/s OM Metals

Infraprojects Limited against the present petitioners and other co-accused and it is during the course of said proceedings that the petitioners were declared as proclaimed person vide order dated 13.05.2022 and the Judicial Magistrate Ist Class had directed the SHO of the concerned Police Station to register the case and in pursuance of the said order, the present FIR was registered. A perusal of order dated 31.08.2022 (Annexure P-5) would show that the complainant has withdrawn its complaint filed under Section 138 of the Act of 1881 as the matter has been compromised between the parties. Once, the complaint under Section 138 of the Act of 1881 has been withdrawn, then, keeping the present FIR under Section 174-A of the IPC alive would be an abuse of the process of the Court.

Keeping in view the abovesaid facts and circumstances as well as the authorities of law referred to hereinabove, the present petition is allowed and FIR No.254 dated 17.07.2022 registered under Section 174-A of the IPC at Police Station Sarai Khawaja, District Faridabad and all the subsequent proceedings arising therefrom, are quashed.

All the pending miscellaneous applications, if any, stand disposed of in view of the abovesaid judgment.

22.09.2022*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:-****Yes/No****Whether reportable:-****Yes/No**