

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(140)

CRM-M-47657-2022

Date of decision: - 17.10.2022

Randhir Singh Tyagi

....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Pushpinder Kaushal, Advocate, for the petitioner.

Mr. Dhruv Sihag, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

This is a petition under Section 482 of Cr.P.C. for quashing of FIR No.217 dated 16.02.2020, registered under Section 174-A of IPC (Annexure P-1), at Police Station Baldev Nagar, District Ambala and all other subsequent proceedings arising therefrom.

Learned counsel for the petitioner has submitted that the State Bank of India had filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the NI Act') and in the said proceedings the petitioner was declared a proclaimed person, vide order dated 18.12.2017 (Annexure P-2) and the concerned SHO was directed to register an FIR under Section 174-A IPC and in pursuance of the said order, the present FIR has been registered. It is further submitted that the petitioner had paid all his dues to the State Bank of India and thus, the State Bank of India through its counsel had withdrawn the complaint filed

under Section 138 of the NI Act and the said fact is apparent from the order dated 30.08.2022 (Annexure P-7). It is also submitted that the petitioner has also been granted the concession of anticipatory bail vide order dated 15.05.2020 (Annexure P-5) by the Additional Sessions Judge, Ambala in the present FIR. It is contended that in view of the same, the present FIR deserves to be quashed.

Learned State counsel appearing on behalf of respondent No.1 has opposed the present petition and has submitted that the present FIR was rightly registered in pursuance of the order dated 18.12.2017 passed by the Judicial Magistrate 1st Class, Ambala and thus, the present petition deserves to be dismissed.

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

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 IPC in view of the order passed in proceedings under Section 138 of the Act, 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 stands withdrawn in view of an amicable settlement between the parties, the continuation of proceedings under Section 174-A IPC is nothing but an abuse of the process of law. The said aspect was one of the main considerations 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 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 IPC shall be an abuse of the process of Court.

In the present case, the State Bank of India had filed a complaint under Section 138 of the NI Act and on 18.12.2017, the petitioner was declared a proclaimed person by the Judicial Magistrate 1st Class, Ambala and a direction was given to the concerned SHO to register an FIR under Section 174-A IPC and in pursuance of the said order, the present FIR has been registered. The matter has been compromised and a perusal of the order dated 30.08.2022 (P-7) would show that that the State Bank of India has withdrawn the complaint under Section 138 of the NI Act and the statement of the counsel for the State Bank of India in the said complaint case to that effect has been annexed as Annexure P-6. The petitioner was granted anticipatory bail, vide order dated 15.05.2020 (P-5) by the Additional Sessions Judge, Ambala in the present

FIR, in which, the factum with respect to the loan in question having been paid off has been noticed and the argument of learned counsel for the petitioner to the effect that the petitioner had never received any summons/bailable warrants, has also been considered in paragraph 3 of the said order.

Keeping in view the facts and circumstances as well as the authorities of law referred to hereinabove, the present petition is allowed and FIR No.217 dated 16.02.2020, registered under Section 174-A of IPC (Annexure P-1), at Police Station Baldev Nagar, District Ambala and all other subsequent proceedings arising therefrom are quashed.

In the present case, no notice has been issued to respondent No.2 as he is not a necessary party as he is not the complainant in the impugned FIR and effecting service upon respondent No.2 would only further delay the matter and would also require the respondent No.2 to entail expenses to appear in the present case, moreso, in view of the fact that in the proceedings under the NI Act, a perusal of the order dated 30.08.2022, would show that the matter has been compromised and complaint under Section 138 NI Act has been withdrawn.

October 17, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No