

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-53636-2022(O&M)
Date of decision : 21.11.2022

Mamta Arya

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr. Digvijay Singh Nehra, Advocate
for the petitioner.

Mr.Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 for quashing of FIR no.097 dated 18.03.2022 registered under Section 174-A IPC at Police Station Sector 7, District Panchkula and all the consequential proceedings arising therefrom.

Learned counsel for the petitioner has submitted that one Krishan Goyal had filed a complaint under Section 138 under Negotiable Instruments Act, 1881 (in short "N.I. Act") and in the said proceedings, the petitioner was declared as proclaimed person vide order dated 13.12.2021, and on the said date, Judicial Magistrate Ist Class, Panchkula directed the SHO concerned to register an FIR under Section 174 IPC and in pursuance of the same, the present FIR has been registered. It is further submitted that the petitioner has been granted bail in the present FIR and he has also compromised the matter in the proceedings under Section 138 of the N.I.

Act and has referred to the compromise deed (Annexure P-3) and also the order dated 21.04.2022 (Annexure P-4) vide which the application filed by the complainant in the proceedings under Section 138 of the N.I. Act had been allowed and the complaint under Section 138 of the N.I. Act has been withdrawn. It is stated that in view of the same, keeping the present FIR alive would be an abuse of process of the Court.

Learned State counsel, on the other hand, has opposed the present petition and has submitted that the present FIR has been registered in pursuance of the order passed by Judicial Magistrate Ist Class and thus, the FIR has been validly registered and present petition deserves to be dismissed.

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

A Coordinate 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 considerations for allowing the petition and setting aside the order declaring the petitioner therein as a 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, the complaint under Section 138 of the N.I. Act was filed Krishan Goyal and in the said proceedings vide order dated 13.12.2021, the petitioner was declared as proclaimed person and the Judicial Magistrate First Class vide the same order had directed the SHO concerned to take action under Section 174-A IPC against the petitioner and thus, the present FIR was registered. The petitioner had appeared in the proceedings under Section 174-A IPC and had also compromised the matter vide compromise deed dated 20.04.2022 (Annexure P-3) with the said Krishan Goyal who had instituted proceedings under Section 138 of the N.I. Act. A perusal of the order dated 21.04.2022 (Annexure P-4) would show that the application for withdrawal of the complaint under Section 138 of the N.I. Act had been filed by Krishan Goyal which was allowed and the complaint stands withdrawn.

Keeping in view of the facts and circumstances and also in view of the laid down in the above said judgments, the present petition is allowed and FIR no.097 dated 18.03.2022 registered under Section 174-A

proceedings arising therefrom are quashed against the petitioner.

No notice is issued to respondent no.2 inasmuch as respondent no.2 is not the complainant with respect to the present FIR and thus, he is not a necessary party. At any rate, as is apparent from Annexure-P-3 and P-4, said Krishan Goyal has withdrawn his complaint under Section 138 of the N.I. Act and thus, issuance of notice to said respondent no.2 would only further delay the proceedings and would also entail legal expenses to be incurred by respondent no.2 in pursuing the present case.

Pending miscellaneous application, if any, stands disposed of in view of the abovesaid order.

(VIKAS BAHL)
JUDGE

November 21, 2022
Davinder Kumar

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