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

**CRM-M-43859-2019 (O&M)
Date of decision : 12.12.2022**

AKASH JOSHI AND ANR

....Petitioners

Versus

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Rajesh Lamba, Advocate
for the petitioners.

Mr. R.K. Ambavta, AAG, Haryana
for respondent No.1-State.

PANKAJ JAIN, J. (ORAL)

By way of present petition filed under Section 482 Cr.P.C., the petitioners are seeking quashing of FIR No.1433 dated 01.08.2019 registered for the offence punishable under Section 174-A of the IPC, at Police Station Shivaji Nagar, District Gurugram (Annexure P-1) and all proceedings subsequent thereto.

2. Ld. Counsel for the petitioners submits that the petitioners were summoned to face trial for offence punishable under Section 138 of the Negotiable Instruments Act, 1881. Owing to their absence therein they were declared as Proclaimed Persons resulting in registration of present FIR under Section 174-A IPC. He has drawn attention of this Court to the orders

passed in the principal complaint filed under Section 138 of the NI Act appended with the petition as Annexure P-3 to submit that all the four complaints stand settled and the proceedings under Section 138 of the N.I. Act stand dropped as the complaint have been withdrawn. He, thus, contends that in the circumstances continuation of the present proceedings under Section 174-A IPC shall amount to an abuse of process of law.

3. Ld. State Counsel admits that fact that the principal complaint filed u/s 138 of the N.I. Act stands withdrawn.

4. I have heard counsel for the parties and have gone through the records of the case.

5. The question w.r.t. continuation of the proceedings under Section 174-A IPC after the complaint filed under Section 138 of the N.I. Act already stands compromised is no more *res integra* and already stands 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."

6. 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.”

7. 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.1433 dated 01.08.2019 registered for the offence punishable under Section 174-A of the IPC, at Police Station Shivaji Nagar, District Gurugram (Annexure P-1) and all proceedings subsequent thereto, are hereby quashed *qua* the present petitioners.

December 12, 2022

Dpr

**(PANKAJ JAIN)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No