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

CRM-M-57063-2022

Date of decision : 07.12.2022

Sandeep Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Lupil Gupta, Advocate for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.424 dated 20.08.2022 registered under Section 174-A of Indian Penal Code, 1860 (hereinafter to be referred as “the IPC”) at Police Station City Mandi Dabwali, District Sirsa as well as all the subsequent proceedings arising therefrom and also order dated 20.05.2022 (Annexure P-2) vide which the Judicial Magistrate Ist Class, Dabwali, District Sirsa had declared the present petitioner as proclaimed person.

Learned counsel for the petitioner has submitted that HDFC Bank had filed a complaint against the present petitioner i.e. complaint No.NACT-329-2018 on account of dishonour of cheque and in the said proceedings, the petitioner was declared as proclaimed person vide order

dated 20.05.2022 (Annexure P-2) and the Judicial Magistrate Ist Class, Dabwali had directed the concerned SHO to register the FIR under Section 174-A of the IPC and in pursuance of the same, the impugned FIR has been registered. It is further submitted that the petitioner has already paid the cheque amount and the matter has been compromised and the complainant-Bank has withdrawn its complaint filed under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter to be referred as “the Act of 1881”) and the said fact is apparent from the order dated 18.11.2022 (Annexure P-3). It is contended that once the complaint under Section 138 of the Act of 1881 is withdrawn, then no purpose is served by keeping the proceedings under Section 174-A of the IPC alive and even the order declaring the petitioner as proclaimed person has lost its significance as the main case itself has been withdrawn.

On the other hand, learned State Counsel has opposed the present petition and has submitted that FIR has been rightly registered on the directions issued by the Judicial Magistrate Ist Class and thus, the present petition deserves to be dismissed.

This Court has heard 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, which declared the petitioner therein as proclaimed offender, 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, complaint under Section 138 of the Act of

1881 has been filed against the present petitioner and it is in the said proceedings that the petitioner was declared as proclaimed person vide order dated 20.05.2022 (Annexure P-2) and the Judicial Magistrate Ist Class, Dabwali had directed that FIR be registered under Section 174-A of the IPC and in pursuance of the same, the present FIR has been registered. A perusal of the order dated 18.11.2022 (Annexure P-3) would show that the complaint filed by HDFC Bank under Section 138 of the Act of 1881 against the present petitioner has been withdrawn as accused-petitioner has made the payment of the cheque amount.

Keeping in view the abovesaid facts and circumstances, as well as the law laid down in the abovesaid judgments, the present petition is allowed and FIR No.424 dated 20.08.2022 registered under Section 174-A of the IPC at Police Station City Mandi Dabwali, District Sirsa as well as all the subsequent proceedings arising therefrom are quashed and order dated 20.05.2022 (Annexure P-2) vide which the Judicial Magistrate Ist Class, Dabwali, District Sirsa had declared the present petitioner as proclaimed person, is set aside.

07.12.2022*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:-****Yes/No****Whether reportable:-****Yes/No**