

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

119

CRM-M-57787-2022
Decided on : 12.12.2022

Ramesh

. . . Petitioner

Versus

State of Haryana

. . . Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Punit Malik, Advocate
for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (Oral)

The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No. 1449 dated 14.09.2022 under Section 174-A IPC registered at Police Station Shivaji Nagar, Gurugram and all subsequent proceedings arising therefrom.

Learned counsel for the petitioner has submitted that on Yogesh Kumar had filed a complaint under Section 138/142 of the Negotiable Instruments Act, 1881 with respect to dishonor of cheque dated 03.12.2018 for a sum of Rs.60,352/- and in the said proceedings, the petitioner was never duly served and was declared as proclaimed offender vide order dated 31.08.2022 (Annexure P-5) and a direction was given to the concerned SHO to initiate proceedings under Section 174-A IPC and in pursuance of the same, the impugned FIR has been registered under Section 174-A. It is submitted that when the petitioner learnt about the said proceedings, the petitioner has compromised the matter with the said

Yogesh Kumar and has duly compensated him and the said Yogesh Kumar has, vide order dated 05.09.2022, withdrawn the complaint under Section 138 of the NI Act and for the said purpose, has referred to the order dated 05.09.2022 (Annexure P-7) in the said regard. It is further submitted that once the proceedings under Section 138 has been withdrawn then keeping the present FIR under Section 174-A IPC alive and continuation of the said proceedings would be an abuse of the process of the Court.

Learned State counsel on the other hand has opposed the present petition and has submitted that the impugned FIR has been registered in pursuance of the directions given by the Court vide order dated 31.08.2022 and thus, the present petition deserves to be dismissed.

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 (CrI.) 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 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, 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 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 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 abuse of the process of court.

In the present case, one Yogesh Kumar filed a complaint under Section 138 read with Section 142 of the NI Act and it is the case of the petitioner that he was never served in the same and vide orders dated 31.08.2022, the petitioner was wrongly declared as proclaimed offender and the concerned SHO was directed to initiate proceedings under Section 174-A IPC and in pursuance of the same, the impugned FIR under Section 174-A was registered. A perusal of the order dated 05.09.2022 would show that the complaint filed under Section 138 of the NI Act has been withdrawn by the complainant and thus, the

proceedings under Section 138 of the NI Act have been closed.

The law laid down in the abovesaid judgments thus, applies to the facts and circumstances of the present case.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and accordingly, FIR No. 1449 dated 14.09.2022 under Section 174-A IPC registered at Police Station Shivaji Nagar, Gurugram and all subsequent proceedings arising therefrom are quashed and the order dated 31.08.2022 is hereby set aside.

(VIKAS BAHL)
JUDGE

12.12.2022
Mehak

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