

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

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**CRM-M-53719-2019 (O&M)
Date of decision: 08.12.2022**

Javed Hassan

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

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

Mr. Rupinder Singh Jhand, Addl. AG Haryana.

None for respondent No.2.

HARNARESH SINGH GILL, J. (ORAL)

Prayer in the petition is for quashing of FIR No. 231 dated 13.03.2018, registered under Section 174-A IPC at Police Station City Jagadhari, District Yamuna Nagar.

As per the office report, the service is complete, but there is no representation on behalf of respondent No.2.

Learned counsel for the petitioner submits that a complaint under Section 138 of the NI Act read with Section 420 IPC was filed by respondent No.2 against the petitioner for dishonouring of cheque of Rs. 3 lakh; that on the basis of order dated 13.03.2018 passed by the learned Judicial Magistrate 1st Class, Jagadhari, the FIR in question was registered against the petitioner; that the petitioner was declared a proclaimed person vide order dated

17.01.2018 and the charges were framed on 24.09.2019; that during the pendency of the case, a compromise was effected between the parties and on the statement of respondent No.2-complainant, the complaint under Section 138 of NI Act was withdrawn vide order dated 19.09.2018.

I have heard the learned counsel for the parties and have also gone through the documents on 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.*

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 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 an abuse of the process of court.

Consequently, the present petition is allowed. FIR No. 231 dated 13.03.2018, registered under Section 174-A IPC at Police Station City Jagadhari, District Yamuna Nagar and all the consequent proceedings arising therefrom are quashed.

08.12.2022

Mangal Singh

(HARNARESH SINGH GILL)

JUDGE

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