

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

CRM-M-513-2023

Date of Decision: 26.05.2023

Amir Chand

..... Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Raj Kumar Bhatia, Advocate, for the petitioner.
Mr. Kirpal Singh Thakur, Asstt. Advocate General, Haryana.
Mr. Gaurav Goel, Advocate for
Mr. Navjit Singh, Advocate, for respondent No.2.

Rajesh Bhardwaj, J.

Prayer in the present petition is for quashing of order dated 29.08.2022 passed by the learned JMIC, Sirsa in complaint No.NACT-1440-2019, dated 22.11.2019 in a case titled as Punjab National Bank vs. Amir Chand, vide which the petitioner was declared as “proclaimed person” and FIR No.164, dated 09.09.2022, was registered under Section 174-A IPC, at Police Station Baragudha, District Sirsa.

Learned counsel for the petitioner has fairly submitted before this Court that the petitioner has cleared all the outstanding dues as per the OTS scheme and the account is also closed. He further submits that the complaint filed by respondent No.2 already stands withdrawn. He submits that in the facts and circumstances of the case, prosecution of the petitioner in the impugned FIR registered under Section 174-A would be totally an abuse of the process of the Court.

Learned State counsel on the other hand contends that the petitioner was rightly declared as proclaimed person, pursuant to which FIR

No.164 dated 09.09.2022, under Section 174-A of IPC, at Police Station Baragudha, District Sirsa was registered against the petitioner and the petitioner is liable to be prosecuted.

Learned counsel for respondent No.2 has affirmed the fact that the petitioner has cleared all the outstanding dues as per the OTS scheme and his account is closed by the respondent-Bank. He has further pleaded no objection, if the present petition is allowed.

I have heard counsel for the parties and perused the record. It is apparent that the present FIR was registered due to non-appearance of the petitioner and he was declared as a proclaimed person vide order dated 29.08.2022. As submitted before this Court, the petitioner has cleared all the dues as per the OTS scheme and his account has also been closed and the complaint also stands withdrawn. As complaint root cause of litigation itself has already been withdrawn by the Bank so continuation of the proceedings under Section 174-A of IPC would not serve any purpose. A coordinate 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 similar view has been taken by this Court in “Anil Kumar Versus Jitender Kumar and another, CRM-M-5878- 2022 decided on 06.04.2022” and “Varinder Kumar @ Virender Kumar Versus State of Haryana and another, CRM-M-42551-2021 decided on 19.04.2022.

So, keeping in view the above-said facts, it is clear that the FIR was registered on account of absence of the petitioner and now the petitioner has cleared all his dues to the Bank and the complaint has already been withdrawn. Continuation of the proceedings under Section 174-A of IPC shall be abuse of the process of the Court. Keeping in view the law settled, the order dated 29.08.2022 (Annexure P-2) passed by the learned JMIC, Sirsa, whereby, the petitioner was declared Proclaimed Person along with subsequent proceedings arising out of the same including FIR No.164 dated 09.09.2022, under Section 174-A of IPC, at Police Station Baragudha, District Sirsa are quashed.

Petition stands disposed of.

26.05.2023
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Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No