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

CRM-M-2469-2023 (O&M)
Date of Decision: 01.03.2023

VIJAY KUMAR

....Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Nonish Kumar, Advocate
for the petitioner.

HARSH BUNGER, J. (Oral)

This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.782 dated 09.12.2021 (Annexure P-2) registered under Section 174-A of the Indian Penal Code, 1860 (hereinafter to be referred as “the IPC”) at Police Station Civil Lines, Karnal and all the consequential proceedings which was registered on account of declaration of petitioner as proclaimed person by the learned Judicial Magistrate First Class, Karnal, vide order dated 20.01.2020 (Annexure P-1) in compliant No.882 of 2019 titled as “Axis Bank Ltd. Versus Vijay Kumar”.

Learned counsel for the petitioner has submitted that a complaint under Sections 138 and 142 of the Negotiable Instruments Act was filed at the behest of complainant-Bank against the present petitioner, wherein the petitioner was wrongly declared as proclaimed person vide order dated 20.01.2020 (Annexure P-1) and an intimation regarding the said

order was sent by the Judicial Magistrate Ist Class, Karnal to the Station House Officer concerned to register an FIR in respect of the same. In pursuance of the said intimation, the FIR (Annexure P-2) was registered against the petitioner. It is submitted that during pendency of the present case, the matter got amicably settled between the petitioner and complainant-Bank and subsequent thereto, the learned counsel appearing for the complainant-Bank (Axis Bank Ltd.), suffered a statement before the Judicial Magistrate Ist Class, Karnal, not to pursue the Complaint No.882 of 2019 and sought withdrawal of the same. On the basis of said statement, the Judicial Magistrate First Class, Karnal, granted permission to withdraw the said complaint vide its order dated 10.12.2021 (Annexure P-4). It is further submitted that once the complaint under Section 138/142 of the Negotiable Instruments Act has been withdrawn, the present FIR under Section 174-A of the Indian Penal Code deserves to be quashed.

Learned State counsel has not disputed the fact that the complaint (No.882 of 2019) stands withdrawn vide order dated 10.12.2021 (Annexure P-4), passed by the Judicial Magistrate Ist Class, Karnal and he does not oppose the prayer of petitioner for quashing of FIR.

This Court has heard the 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.

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.”

In case titled as “**Ashok Madan vs. State of Haryana and another**” reported as 2020(4) RCR (Criminal) 87, it is 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.”

Another co-ordinate Bench of this Court in a case bearing CRM-M-14623-2021 titled as “**Deepak vs. State of Haryana and another**”, decided on 17.02.2022, has held as under:-

“...Since, the proceedings under Section 138 of the Act of 1881 has been withdrawn and the present FIR has been registered on account of non-appearance of the petitioner, this Court feels that continuance of the proceedings in the present FIR would be an abuse of process of the Court.

Keeping in view the abovesaid facts and circumstances, as well as the authorities of law referred to above, the present petition is allowed and FIR No.969 dated 04.11.2018 registered under Section 174-A of IPC at Police Station Ballabgarh City, District Faridabad (Annexure P-3) and all the consequential proceedings arising therefrom, are ordered to be quashed qua the petitioner...”

A perusal of the above referred judgments would manifest that where an FIR under section 174-A of Indian Penal Code was registered consequent upon declaration of the accused in the proceedings under Section 138 & 142 of the Negotiable Instruments Act as “Proclaimed Person”, then upon subsequent withdrawal of proceedings under Section 138 of the

Negotiable Instruments Act on the basis of an amicable settlement, it has been observed that the continuation of proceedings under Section 174-A IPC shall be an abuse of the process of court.

In the present case, it is not in dispute that the complainant-Bank had filed a complaint under Section 138/142 of the Negotiable Instruments Act and it is in the said proceedings that the petitioner was declared as proclaimed person by the trial Court and as a consequential action thereof, the present FIR No.782 dated 09.12.2021 (Annexure P-2), was registered under Section 174-A of the Indian Penal Code, at Police Station Civil Lines, District Karnal. Thereafter, the matter was compromised between the parties and complainant-Bank had withdrawn the complaint under Section 138/142 of the Negotiable Instruments Act as per order dated 10.12.2021 (Annexure P-4), which is reproduced hereinbelow:-

“Present: Sh. Amit Munjal, counsel for the complainant.

File put up on the application for withdrawal of the present complaint has been moved by complainant through his counsel. File be restored to its original number.

*Today, ld. Counsel for the complainant appeared and suffered a statement that as per the instructions of the complainant-bank regarding the settlement with accused and he does not want to pursue further with the complaint and withdraws the same. Keeping in view the above statement, present complaint is **dismissed as withdrawn**. File be consigned to record room after due compliance.*

(Pawandeep Kumar)
JMIC, Karnal. 10.12.2021
UID No.HR-0464”

Thus, after the withdrawal of proceedings under Section

138/142 of the Negotiable Instruments Act on the basis of amicable settlement, continuation of proceedings under Section 174-A of the Indian Penal Code shall be an abuse of process of law.

Keeping in view the abovesaid facts and circumstances, as well as the authorities of law referred to above, the present petition is allowed and FIR No.782 dated 09.12.2021 registered under Section 174-A of the Indian Penal Code, 1860 at Police Station Civil Lines, Karnal (Annexure P-2) and all the consequential proceedings arising therefrom, are ordered to be quashed qua the petitioner.

Present petition is disposed of in the aforesaid terms.

All pending application(s), if any, shall stand disposed of.

01.03.2023

Amandeep/Apurva

**(HARSH BUNGER)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No