

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

CRM-M-15066-2023

Date of Decision : 24.03.2023

Man Singh Chauhan

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present : Mr. Vishal Khatkar, Advocate
for the petitioner.

VIKRAM AGGARWAL, J (ORAL)

Prayer in the present petition is for quashing of FIR No.0484 dated 03.04.2019, registered under Section 174-A IPC, at Police Station Shivaji Nagar, District Gurugram and all consequential proceedings arising therefrom.

Notice of motion.

On the asking of the Court, Mr. Surender Singh, AAG, Haryana, Punjab accepts notice on behalf of the respondent-State. Complete copy of the paper book has been supplied to him.

A complaint under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act') was filed by M/s Shree Shyam Trading Company against M/s Naman Enterprises of which the present petitioner was the proprietor. It was alleged that cheque amounting to Rs.5,00,000/- issued by the present petitioner in discharge of his liability had been dishonoured.

Initially, the petitioner did not appear before the trial Court as a result of which he was declared a proclaimed person. Subsequently, the present FIR was registered against him.

It is the contention of learned counsel for the petitioner that the petitioner was never served and the moment he came to know about the pendency of the case, he put in appearance and contested the case. The matter was considered on merits and the petitioner has now been acquitted vide judgment dated 14.03.2023, passed by the Judicial Magistrate Ist Class, Gurugram (Annexure P-4). It has been submitted that under the circumstances, the FIR deserves to be quashed. Reliance has been placed upon a judgment of a Coordinate Bench of this Court in the case of **Rahul Dureja and another vs. State of Punjab 2022 (1) R.C.R. (Criminal) 248.**

Learned counsel representing the State has not been able to dispute the aforesaid facts and the position of law as laid down in the aforesaid judgment.

I have considered the submissions made by learned counsel for the parties.

Admittedly, the petitioner did not initially appear before the trial Court as a result of which he was declared a proclaimed person and the present FIR under Section 174-A IPC was registered. The judgment dated 14.03.2023 (Annexure P-4), passed by the trial Court has now acquitted the petitioner. The question would be as to whether on account of the acquittal of the petitioner in the complaint under Section 138 of the Act, the present FIR deserves to be quashed.

Going by the facts of the case, it is clear that even with the continuation of the FIR, no useful purpose will be served and the interest of justice demands that the same should be quashed. A Coordinate Bench of this Court also ceased of the same question relying upon the judgment in the case of **Ashok Madan vs. State of Haryana and another 2020 (4) RCR (Criminal) 87** wherein it had been held that since the FIR under Section 174-A IPC had been registered only on account of absence from the proceedings in the main case which had been subsequently regularized by the Court while granting bail to the petitioner, the default stood condoned and, therefore, the FIR deserved to be quashed. A Coordinate Bench of this Court also took the same view in the case of **Rahul Dureja's case** (supra) and held as under:-

“A perusal of the above judgment would show that where FIR has been registered under Section 174-A of the IPC in view of the order passed in the proceedings under Section 138 of the Act of 1881, while declaring the petitioners as proclaimed persons in the said proceedings, a coordinate Bench after relying upon various judgments, had observed that once the accused persons had appeared in the proceedings under Section 138 of the Act of 1881 and had been granted the concession of bail, then the effect of order declaring the accused person as proclaimed person would dissipate and the ground for registration of the FIR under Section 174-A of the IPC would no longer exist and thus, any proceeding under Section 174-A of the IPC would be an abuse of the process of the Court.”

A similar view has been taken by the Coordinate Benches of

this Court in Vikas Sharma vs. Gurpreet Singh Kohli and another CRM-M-32465-2017, decided on 13.09.2017 and Deepak versus State of Haryana and another CRM-M-14623-2021, decided on 17.02.2022

This Court agrees with the view taken by the Coordinate Benches of this Court in the aforesaid judgments.

In view of the above, the present petition is allowed and FIR No.0484 dated 03.04.2019, registered under Section 174-A IPC, at Police Station Shivaji Nagar, District Gurugram along with all consequential proceedings arising therefrom are hereby quashed qua the petitioner.

(VIKRAM AGGARWAL)
JUDGE

24.03.2023
mamta

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No