

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

CRM-M-16179-2019

Date of decision : 09.08.2023

RAGHVENDRA PAROKARI AND ORS.

....Petitioners

Versus

STATE OF HARYANA AND ANR

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Gorav Kathuria, Advocate for the petitioners.

Mr. Gaurav Bansal, DAG, Haryana.

Mr. Mandhir S.Virk, Advocate for respondent No.2.

PANKAJ JAIN, J. (ORAL)

Present petition is directed against FIR No.533 dated 10th of October, 2017 whereby the petitioners has been booked for the offence punishable under Section 174-A IPC at Police Station Kotwali, District Faridabad (Annexure P-2).

2. Initially the petitioner was summoned in a complainat case filed under Section 138 of the Negotiable Instruments Act, 1881 in complaint bearing No.NACT 4466 of 2016 dated 4th of November, 2016. The petitioners failed to appear and resultantly were declared as Proclaimed Persons on 15th of September, 2017 on account of which the impugned FIR came into being.

3. Counsel for the petitioners has drawn attention of this Court to the settlement deed dated 14th of February, 2019 (Annexure P-3) and the

order dated 15th of February, 2019 (Annexure P-4) passed by JMIC, Faridabad to submit that main proceedings under Section 138 of the N.I. Act already stand compromised and the complaint has been withdrawn as the liability alleged against the petitioners stands satisfied. It has been thus contended that the order declaring the petitioners as Proclaimed Persons and the consequential FIR No.533 dated 10th of October, 2017, cannot be sustained. He argues that the main objective of incorporating Section 174-A IPC is to secure the presence of the accused.

4. Keeping in view the fact that in the present case the main proceedings under Section 138 of the N.I. Act already stand compromised and the complaint has been withdrawn, the question will be 'whether in the given circumstances, proceedings under Section 174-A of the IPC pursuant to FIR No.533 dated 10th of October, 2017 can be allowed to continue'?

5. The question framed *ibid* is no more *res integra* and already stands answered by Co-ordinate Bench of this Court in CRM-M-43813-2018 titled as **“Baldev Chand Bansal Vs. State of Haryana and another”** vide order dated 29.01.2019, which 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.

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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."

6. Same is the view of another Co-ordinate Bench in the “**Ashok Madaan vs. State of Haryana and another**” reported as **2020 (4) RCR (Criminal) 87**, wherein it has been held that:

“No doubt, the learned counsel for the respondent has vehemently argued that the offence under Section 174-A 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.”

7. Keeping in view the facts and circumstances of the present case and in view of the principles settled by this Court, the present petition is allowed. FIR No.533 dated 10th of October, 2017 registered for the offence punishable under Section 174-A of the N.I. Act, at Police Station Kotwali, District Faridabad (Annexure P-2), is hereby quashed *qua* the present petitioners.

August 09, 2023
Dpr

(Pankaj Jain)
Judge

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No