

134 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-18671-2023
DECIDED ON: 17th APRIL, 2023

SOMESH CHOUDHARY

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Jagdeep Singh Rana, Advocate,
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

The jurisdiction of this Court under Section 482 has been invoked for quashing of FIR No. 6, dated 04.01.2020 (Annexure P-1), under Section 174-A of the Indian Penal Code, 1860 (for short 'IPC') registered at Police Station Arya Nagar, Rohtak as well as order dated 02.01.2023 (Annexure P-2) whereby the petitioner was declared proclaimed person in complaint case under Section 138 of Negotiable Instrument Act, 1881 bearing No. COMA/2217/2016, titled as **Bhupender Singh vs. Somesh Choudhary** due to non-appearance on 02.01.2023.

Learned counsel for the petitioner has submitted that in the present case, a complaint was filed against the petitioner under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter to be referred as “the Act of 1881”) and in the said complaint, the petitioner was declared as proclaimed person vide order dated 02.01.2023 (Annexure P-2) and a

174-A IPC. Accordingly, the afore-said FIR was registered against the petitioner at Police Station Arya Nagar, Rohtak.

Learned counsel for the petitioner has further submitted that a compromise has been effected between the parties, which is annexed with the present petition as Annexure P-3. It is submitted that no useful purpose would be served by prosecuting the petitioner in the instant FIR once the dispute is being settled by the petitioner and continuance of the instant proceedings would only subject the petitioner to unwarranted and undesirable harassment of no intentional lapse.

Learned counsel for the petitioner has placed reliance upon the orders dated 20.07.2022 and 24.08.2022 respectively, passed by a co-ordinate Bench of this Court in CRM-M-46062-2017, titled as “***Jatin Dhawan and another versus State of Haryana and another***” and CRM-M-12534-2022, titled as “***Krishan Kumar versus State of Haryana and another***”, wherein it has been held that once the main case is dismissed as withdrawn the continuation of proceedings under Section 174-A IPC shall be an abuse of process of law.

He also placed reliance upon the orders of this Court dated 12.12.2022 and 13.12.2022 passed in CRM-M-55634-2022 titled as ***Jinder Singh Vs. State of Punjab and another*** and CRM-M-45051-2022 titled as ***Hari Singh Meena Vs. State of Haryana.***

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 174-A 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 of the IPC shall be an abuse of the process of court.

In the present case a compromise has been effected between the parties and once the parties has settled the dispute amicably then the continuance of the prosecution in the FIR under Section 174-A of IPC would be an abuse of the process of Court.

Keeping in view the above-said facts and circumstances, the present petition is allowed and FIR No. 6, dated 04.01.2020 (Annexure P-1), under Section 174-A of the Indian Penal Code, 1860 (for short 'IPC') registered at Police Station Arya Nagar, Rohtak as well as order dated 02.01.2023 (Annexure P-2) whereby the petitioner was declared

proclaimed person, with all subsequent proceedings arising therefrom, are hereby quashed qua the petitioner.

The trial Court is directed to proceed with the complaint bearing No. COMA/2217/2016, titled as **Bhupender Singh vs. Somesh Choudhary** in accordance with law. However, the petitioner is directed to surrender before the Court concerned and furnish fresh bail/surety bonds with an undertaking that he will keep on appearing before it on each and every date.

(SANDEEP MOUDGIL)
JUDGE

17th APRIL, 2023
sham

- | | |
|---------------------------------|----------|
| 1. Whether speaking/ reasoned : | Yes / No |
| 2. Whether reportable : | Yes / No |