

118 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-21857-2023 (O&M)
DECIDED ON: 01st MAY, 2023

AKASH SINGH BENIWALPETITIONER
VERSUS

ABHISHEK CHOYAL AND ANOTHERRESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Sanjiv Gupta, Advocate,
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

CRM-19502-2023

Application is allowed, as prayed for.

CRM-M-21857-2023

The jurisdiction of this Court under Section 482 Cr.P.C., has been invoked for quashing of impugned order dated 15.03.2019 (Annexure P-3) passed by learned Judicial Magistrate Ist Class, Sirsa in CIS No. NACT/524-2018, filed under Section 138 of the Negotiable Instruments Act, 1881 titled as **Abhishek Choyal vs. Akash Singh Beniwal;** whereby, the petitioner has been declared as proclaimed person.

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 15.03.2019 (Annexure P-3).

Learned counsel for the petitioner has further submitted that a compromise has been effected between the parties and the main complaint stands withdrawn in view of compromise.

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Kumar versus State of Haryana and another***”, wherein it has been held that once the main case is dismissed as withdrawn the continuation of proceedings under Section 174-A IPC shall be an abuse of process of law.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.

This Court is of the firm view that since the main complaint under Section 138 NI Act has been dismissed as withdrawn in view of compromise vide order dated 11.02.2023 (Annexure P-4), the order declaring the petitioner as proclaimed person is also required to be quashed.

Keeping in view the above-said facts and circumstances, the present petition is allowed and the impugned order dated 15.03.2019 (Annexure P-3) whereby the petitioner was declared proclaimed person, are hereby quashed qua the petitioner.

(SANDEEP MOUDGIL)
JUDGE

1st MAY, 2023
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| 1. Whether speaking/ reasoned : | Yes / No |
| 2. Whether reportable : | Yes / No |