

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

**CRM-M-22069-2023
DECIDED ON: 02.05.2023**

GURWINDER SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Amandeep Kaur, Advocate for
Mr. Harvinder Singh Maan, Advocate for the petitioner.

Mr. Rajiv Verma, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

This is a petition under Section 482 of Cr.P.C., for quashing of the impugned order dated 29.10.2022 (Annexure P-8) passed by Ld. Additional Chief Judicial Magistrate, Mansa, whereby the petitioner declared proclaimed offender and further prayer to quash the FIR No.227 dated 07.11.2022, under Section 174-A of IPC, registered at Police Station City-2 Mansa.

Learned State counsel submits that the petitioner stands arrested by the police on 30.04.2023 and as such, the prayer made herein has been rendered infructuous.

This Court, though is of the considered view that proceedings with regard to the order dated 29.10.2022 (Annexure P-8), vide which the petitioner was declared proclaimed offender have been rendered infructuous, wherein the petitioner may seek regular bail, if so advised, but as far as the question of quashing of FIR No.227 dated 07.11.2022, under Section 174-A of IPC, registered at Police Station City-2 Mansa is concerned, this petition still survive to the view of this Court.

It is also apparent from the perusal of the paper-book, wherein order dated 03.03.2023 (Annexure P-10) has been placed on record, wherein the complaint also stands dismissed in default for want of prosecution, after continuance non-appearance of the complainant in that complaint. The continuation of FIR No.227 dated 07.11.2022, under Section 174-A of IPC, registered at Police Station City-2 Mansa would also be an abuse of process of law.

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versus State of Haryana and another”***, respectively wherein it has been held that once the main case is dismissed as withdrawn, the continuation of proceedings under Section 174-A IPC shall be an abuse of process of law.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

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 the complaint under Section 138 of the Act of 1881 has been dismissed as withdrawn. Once the impugned complaint has been dismissed as withdrawn and the accused stands acquitted, 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.227 dated 07.11.2022, under Section 174-A of IPC, registered at Police Station City-2 Mansa, as well as the order dated 29.10.2022 (Annexure P-8), with all subsequent proceedings arising therefrom, are hereby quashed qua the petitioner.

The trial Court is directed to release the petitioner forthwith.

(SANDEEP MOUDGIL)
JUDGE

02.05.2023

Meenu

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>