

2023:PHHC:070963

115 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-23283-2023 (O&M)

Date of decision: 16.05.2023

SURJIT SINGH MALIK

...Petitioner

V/s

STATE OF UT CHANDIGARH AND ANR.

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Amit Kaith, Advocate
for the applicant/petitioner.

DEEPAK MANCHANDA J. (ORAL)

CRM-22393-2023

This is an application under Section 482 of Cr.P.C. seeking placing on record the certified copy of the order of withdrawal of complaint filed by respondent No. 2/complainant as Annexure P-24 dated 20.12.2022.

For the reasons mentioned in the application, same is allowed.

Annexure P-24 is taken on record.

CRM-M-23283-2023

By way of present petition, the petitioner is seeking quashing of order dated 05.04.2021 (Annexure P-19) passed by Judicial Magistrate Ist Class, Chandigarh, whereby petitioner was declared as proclaimed offender in case titled as *Kuldeep Malik Vs. Neha Bansal and Ors.* filed under Section 156(3) of Cr.P.C. and all the subsequent proceedings arising therefrom as well as FIR No. 310 dated 03.12.2022 (Annexure P-21) registered under Section 174-A of IPC at Police Station Sector-36, Chandigarh.

In compliance of the order dated 08.05.2023, learned counsel for

passed by the trial Court vide which the original complaint has been withdrawn by the complainant.

Precisely the contention of learned counsel for the petitioner is that once the complaint filed under Section 156(3) of Cr.P.C. stands withdrawn and the liability which was alleged against the petitioner stands satisfied, the present proceedings under Section 174-A IPC should not be allowed to continue.

Notice of motion.

Ms. Simsi Dhir Malhotra, Addl. PP UT Chandigarh, who is present in the Court, accepts notice on behalf of respondent No. 1-State and admitted the fact that the complaint under Section 156(3) of Indian Penal Code filed by the complainant has been withdrawn.

In view of the facts and circumstances as pleaded by the parties, it is apparent that the present FIR came into existence owing to the petitioner having been declared proclaimed person for non-appearance in the complaint No.NACT/3706/2016. The said complaint stands withdrawn. Thus the question would arise as to whether the proceedings under Section 174-A IPC should be allowed to continue after compounding of offence under which accused was declared proclaimed offender or not? The said question is no more *res-integra* and already stands settled by the 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.”

*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."

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.”

Keeping in view the facts and circumstances of the case and in view of the principles settled by various Courts, the present petition is allowed.

The impugned order dated 05.04.2021 (Annexure P-19) vide which the petitioner was declared proclaimed person and FIR No. 310 dated 03.12.2022 under Section 174-A I.P.C. registered at Police Station Sector-36, Chandigarh and all consequential proceedings are hereby quashed qua the petitioner.

16.05.2023

(DEEPAK MANCHANDA)
JUDGE

Ajay Goswami

Whether speaking/reasoned	Yes
Whether reportable	Yes/No