

2023:PHHC:067417

119 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-23688-2023

Date of decision: 10.05.2023

ASHISH TYAGI

...Petitioner

V/s

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Vishnu Dutt, Advocate
for Mr. Naveen Bawa, Advocate for the petitioner.

DEEPAK MANCHANDA J. (ORAL)

By way of present petition, the petitioner is seeking quashing of FIR No. 327 dated 18.08.2018 under Section 174-A IPC registered at Police Station Faridabad Old, District Faridabad (Annexure P-2) as a sequel of order dated 28.11.2017 passed by JMIC, Faridabad in complaint bearing No. NACT/1232/2016 filed under Section 138 of the Negotiable Instruments Act 1881 and consequential proceedings arising therefrom.

Learned counsel for the petitioner refers to order dated 19.03.2021 (Annexure P-4) passed by the trial Court, whereby the complainant withdrew the complaint filed under Section 138 of Negotiable Instruments Act 1881, acknowledging the fact that accused has made the entire payment.

Precisely the contention of learned counsel for the petitioner is that once the complaint filed under Section 138 of the NI Act stands withdrawn and the liability which was alleged against the petitioner stands satisfied, the present proceedings under Section 174-A IPC should not be allowed to continue.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.

Mr. Bhupender Singh, DAG Haryana, who is present in the Court, accepts notice on behalf of respondent No. 1-State and admitted the fact that whole amount has been repaid and complaint under Section 138 of NI Act has been withdrawn.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 in the proceedings under Section 138 of the NI Act. The said complaint stands withdrawn.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 Coordinate 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."

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 FIR No. 327 dated 18.08.2018 under Section 174-A I.P.C. registered at Police Station Faridabad Old, District Faridabad and all consequential proceedings are hereby quashed qua the petitioner.

(DEEPAK MANCHANDA)
JUDGE

10.05.2023
Ajay Goswami