

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M 22717 of 2019

Date of Decision: 20.02.2023

Pawan Kumar

.....*Petitioner*

Versus

State of Haryana & Anr.

.....*Respondents*

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH.

Present: Mr. S.K. Tripathi, Advocate for the petitioner.

Mr. Karan Sharma, DAG, Haryana.

GURBIR SINGH, J (ORAL)

The petitioner has filed this petition under Section 482 Cr.P.C. for quashing of order dated 06.04.2019 (Annexure P-2) passed by learned JMIC, Faridabad in Criminal Complaint No.57 dated 16.01.2018 vide which the petitioner was declared proclaimed offender and the direction was given to concerned SHO for initiation of proceedings under Section 174-A IPC of 1860.

Learned State counsel has already filed a Status report by way of affidavit of Sukhbir Singh, HPS, Assistant Commissioner of Police, Tigaon, Faridabad, on behalf of respondent-State. The same is taken on record.

Learned Counsel for the petitioner states that a perusal of status report reveals that FIR No.248, dated 22.05.2019 under Section 174-A IPC was registered at P.S. Sadar Ballabgarh, District Faridabad, as per direction of the trial Court while declaring the petitioner as proclaimed person, so he also prays for quashing of the said FIR along with all consequential proceedings arising out of it.

In view of the request, FIR No.248, dated 22.05.2019 under Section 174 A IPC was registered at P.S. Sadar Ballabgarh, District Faridabad, is ordered to be inserted in the heading of the petition.

The brief facts of the case are that a complaint under Section 138 of NI Act was instituted. The petitioner failed to appear before the learned trial Court and thereafter his non-bailable warrant was issued and finally he was declared as a proclaimed offender as per order dated 06.04.2019 pursuant to which an FIR in question was registered against him. Subsequently, the petitioner/accused paid the entire cheque amount to the complainant and settled the matter. Thereafter, the complainant made statement that he had received the cheque amount and he did not want to proceed further with the complaint. Therefore, the complaint was dismissed as withdrawn vide order dated 26.04.2019 (Annexure P-3).

Learned counsel for the petitioner submits that the present FIR came to be registered against the petitioner due to his non-appearance in aforesaid complaint. Thereafter, matter was compromised between the parties and the petitioner-accused had made the entire payment to the complainant. The complainant got recorded his statement before the learned trial Court that he had received the entire cheque amount and he did not want to proceed further with the complaint. Based on the said statement, the complaint was dismissed as withdrawn vide order dated 26.04.2019 (Annexure P-3).

Learned State counsel has opposed the present petition and has submitted that the FIR has been correctly registered.

This Court has heard the learned counsel for the petitioner and the learned State counsel and has perused the paper book.

A co-ordinate Bench of this Court in CRM-M-43813-2018 titled as “Baldev Chand Bansal vs. State of Haryana and another”, decided on 29.01.2019 has 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 (CrI.) 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.”

A perusal of the above judgment would show that in a similar case where the FIR had been registered under Section 174-A IPC in view of the order passed in proceedings under Section 138 of the Act, while declaring the petitioner therein as a proclaimed offender, a co-ordinate Bench after relying upon various judgments observed that once the main petition under Section 138 of the Act stands withdrawn in view of an

amicable settlement between the parties, the continuation of proceedings under Section 174-A IPC is nothing but an abuse of the process of law. The said aspect was one of the main considerations for allowing the petition and setting aside the order declaring the petitioner therein as a proclaimed person as well as for quashing of the FIR under Section 174-A IPC.

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 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.”

Since the main complaint filed under Section 138/139 of the Act stands withdrawn in view of amicable settlement between the parties, therefore, continuation of proceedings under Section 174-A of IPC shall be nothing but an abuse of the process of law.

Keeping in view the above said facts and circumstances and considering the request of the learned counsel for the petitioner, the present petition is *allowed* and the impugned order dated 06.04.2019 (Annexure P-2) passed by learned JMIC, Faridabad in Criminal Complaint No.57 dated 16.01.2018 as well as FIR No.248, dated 22.05.2019 under Section 174 A

IPC was registered at P.S. Sadar Ballabgarh, District Faridabad and all other consequential proceedings arising therefrom, qua petitioner are hereby quashed.

20.02.2023

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(GURBIR SINGH)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No