

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

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CRM-M-25619-2022 (O&amp;M)

Date of decision: 17.07.2023

Siddharth Kumar

..Petitioner

Versus

State of Haryana

..Respondent

**CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY**

Present: Mr. Ivan Singh Khosa, Advocate for the petitioner

Mr. Dhruv Sihag, AAG, Haryana

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**AMAN CHAUDHARY, J**

1. The present petition has been filed under Section 482 CrPC for quashing of FIR No.32 dated 20.02.2021 registered under Section 174A IPC, at Police Station Nigdhu, Karnal and all other consequential proceedings arising therefrom.

2. Learned counsel contends that in a complaint case NACT/2362/2016, registered under Section 138 of Negotiable Instruments Act, 1881, the petitioner was declared a proclaimed person way back on 03.07.2017, Annexure P/2. He surrendered and was granted bail by the trial Court vide order dated 09.11.2020, Annexure P/3. However, after 4 months, an FIR under Section 174A, IPC was registered against him on 20.02.2021, Annexure P/4. As is apparent from Annexure P/11, the petitioner could not receive the summons or warrants on account of the fact that the address was not correct, since the office was not operational, as proceedings under Section 433 of the Companies Act, 1956 for winding up the company had been initiated vide order dated 18.01.2018, Annexure P/10. However, the complaint was itself quashed by the trial Court by relying upon judgment of Hon'ble The Supreme Court **P. Mohanraj vs. M/s**

**Shah Brothers Ispat Pvt. Ltd.** (SC) 2021 (22) RCR (Criminal) 711, on failure to implead the accused-petitioner as a party vide order dated 26.10.2021, Annexure P/6. Thereafter, the amount in dispute was paid to the complainant as mentioned in the order of the trial Court of the even date, Annexure P/7, whereby in view of the above fact, the application of discharge was not allowed. Therefore, prayer for quashing of proceedings under Section 174A IPC is made, they being an abuse of process of law, as held in **Smt. Deeksha Puri vs. State of Haryana**, 2013(1) RCR (Criminal) 159, **Ashok Madan vs. State of Haryana and another**, 2020 (4) RCR (Criminal) 87, **Naresh Kumar vs. State of Haryana**, CRM-M-49528-2021, dated 11.05.2023 and **Rahul Dureja and another vs. State of Punjab**, 2022(2) RCR (Criminal) 686. The petitioner is also suffering from Acute Asthmatic Bronchitis and Vertigo, thus requires constant medical attention.

3. Learned State counsel however opposes the prayer on the ground that the offence under Section 174A IPC is a consequence of the petitioner having been declared a proclaimed person and as such his surrendering shall not be sufficient to quash the FIR registered against him.

4. Heard both parties.

5. In **Ashok Madan** (supra), the FIR registered under Section 174A IPC and the proceedings therein were quashed because the accused had surrendered as well as for want of prosecution in the complaint case, which was dismissed, by observing that continuation of proceedings under Section 174A IPC shall be abuse of the process of Court. Moreover, in **Rahul Dureja** (supra) the address of the petitioner was wrongly mentioned, hence, neither notices nor summons were served upon him, the proceedings declaring him proclaimed person and the FIR so registered under Section 174A were held to be illegal and same were set aside. A coordinate bench of this Court in **Murli Jha vs. State of Haryana**, 2021(3) R.C.R.(Criminal) 563, had quashed the FIR

registered under 174A IPC after the accused had surrendered before the trial Court and the amount stood paid to the complainant, pursuant to which, the complaint was withdrawn.

6. The FIR under Section 174A IPC is the consequence of declaring a person as a proclaimed person/offender, as the case may be. The basis of the same is the absence of the concerned from the Court, be it for any reason. Subsequently it having dawned on such person to join the proceedings; the Court extending him the concession of bail and the complaint itself being satisfied or culminated on any account, can all be factored to conclude that the very purpose of initiation of proclamation proceedings, that is to compel and secure the presence of the accused to face trial and establish the rule of law so as to ensure finalization of the proceedings pending between the parties, stands nonetheless achieved. In wake of the above, to permit the continuation of the FIR would amount to an abuse of the process of law.

7. Pertinently, in the case in hand, the petitioner surrendered before the trial Court on his own volition and was thereafter enlarged on bail. Further still, the complaint itself came to be quashed by the trial Court and subsequent thereto, the petitioner made the payment of the entire dues to the complainant.

8. In **Jugesh Sehgal vs. Shamsher Singh Gogi**, (2009) 14 SCC 683, Hon'ble The Supreme Court, with respect to the powers under Section 482 CrPC held that the same need to be exercised, where the Court is convinced, on the basis of material on record, that allowing the proceedings to continue would be an abuse of the process of the court.

9. Considering the facts and circumstances of the present case in light of the afore-referred judgments, this Court finds no justifiable reason to continue with the proceedings in the FIR.

10. Resultantly, the present petition is allowed. FIR No.32 dated 20.02.2021, registered under Section 174A IPC at PS Nigdhu, Karnal as well as consequential proceedings shall stand quashed.

17.07.2023  
ashok

( AMAN CHAUDHARY )  
JUDGE

Whether speaking/reasoned :    Yes / No

Whether reportable :                Yes / No