

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

**CRM-M-26763-2022
DECIDED ON: 25.04.2023**

SUBHASH CHAND

.....PETITIONER

VERSUS

STATE OF HARYANA AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Krishan Singh, Advocate
for the petitioner.

Mr. Ashok Kumar Sehrawat, DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

This is a petition under Section 482 of Cr.P.C., for quashing the order dated 13.12.2021 passed by Ld. Judicial Magistrate 1st Class, Jagadhri, Yamuna Nagar (Annexure P-20), whereby the petitioner has been declared proclaimed offender.

It is the assertion made by learned counsel for the petitioner that subsequent to that order, an FIR No.178 dated 25.04.2022 was also registered at Police Station Sector-17, Huda, Jagadhri, Yamuna Nagar for an offence under Section 174-A of IPC.

Learned counsel for the petitioner has sought quashing of the aforesaid order as well as the FIR on account of the fact that the petitioner was never served, as there is no evidence with regard to the service upon the petitioner in the complaint under Section 138 of Negotiable Instruments Act involving cheque No.333685 dated 15.10.2017 for a sum of Rs.4,60,300/-

drawn on State Bank of India, Branch Yamuna Nagar.

Learned counsel for the petitioner states that the main complaint stands withdrawn by the complainant, in view of the compromise affected between the parties vide order dated 30.01.2023. A copy of the same has been produced before this Court today and the same is taken on record as Mark-“A”.

Since the main complaint has been disposed of, as is evident from the perusal of aforesaid order passed by Judicial Magistrate 1st Class, Jagadhri and the offence between the petitioner and complainant is personal in nature not against the society at large, who have resolved their dispute, no fruitful purpose would be served by continuing the proceedings in the instant FIR No.178 dated 25.04.2022, registered at Police Station Sector-17, Huda, Jagadhri, Yamuna Nagar for an offence under Section 174-A of IPC as well.

Since the Court is convinced on perusal of the pleadings and the submissions made by learned counsel for the petitioner that the petitioner was never served with the summoning orders or any bailable/non-bailable warrants at any stage during the course of trial, the continuation of proceedings in the instant FIR, in pursuance of the order dated 13.12.2021 passed by Judicial Magistrate 1st Class, Jagadhri would tantamount to nothing else, but an abuse of process of law, which will finally be turned to a futile exercise.

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.178 dated 25.04.2022, under Section 174A of IPC, 1860, registered at Police Station Sector-17, Huda, Jagadhri, Yamuna Nagar, as well as the order dated 13.12.2021 (Annexure P-20), with all subsequent proceedings arising therefrom, are hereby quashed qua the petitioner.

(SANDEEP MOUDGIL)
JUDGE

25.04.2023

Meenu

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