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2023:PHHC:075673

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

CRM-M-26287-2023

DECIDED ON: 24th MAY, 2023

HEMANGI NEGI

PETITIONER

VERSUS

STATE OF HARYANA AND ANOTHER

RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Vishal Yadav, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

The jurisdiction of this Court under Section 482 has been invoked for quashing the order dated 24.01.2023 (Annexure P-2) whereby the petitioner was declared proclaimed person in complaint case under Section 138 of Negotiable Instrument Act, 1881 bearing No. NACT/4866/2018 titled as 'Indiabulls Housing Finance Ltd. Vs. Hemangi Negi' (Annexure P-2) as well as FIR No. 367, dated 12.02.2023 (Annexure P-3), under Section 174-A of the Indian Penal Code, 1860 (for short 'IPC') registered at Police Station Shivaji Nagar, District Gurugram.

Learned counsel for the petitioner has submitted that in the present case, a complaint was filed against the petitioner under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter to be referred as "the Act of 1881") and in the said complaint, the petitioner was declared as

under Section 174-A of the Indian Penal Code, 1860 (for short 'IPC') was registered at Police Station Shivaji Nagar, District Gurugram.

Learned counsel for the petitioner has further submitted that complaint filed under Section 138 of the Act of 1881 was dismissed as withdrawn vide order dated 29.04.2023 (Annexure P-4).

Learned counsel for the petitioner has placed reliance upon the orders dated 20.07.2022 and 24.08.2022 respectively, passed by a co-ordinate Bench of this Court in CRM-M-46062-2017, titled as ***“Jatin Dhawan and another versus State of Haryana and another”*** and CRM-M-12534-2022, titled as ***“Krishan Kumar versus State of Haryana and another”***, wherein it has been held that once the main case is dismissed as withdrawn the continuation of proceedings under Section 174-A IPC shall be an abuse of process of law.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 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.***

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, FIR No. 367, dated 12.02.2023 (Annexure P-3), under Section 174-A of the Indian Penal Code, 1860 (for short 'IPC') registered at Police Station Shivaji Nagar, District Gurugram as well as impugned order dated 24.01.2023 (Annexure P-2), are hereby quashed qua the petitioner.

(SANDEEP MOUDGIL)
JUDGE

24th MAY, 2023
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| 1. Whether speaking/ reasoned : | Yes / No |
| 2. Whether reportable : | Yes / No |