

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

CRM-M-27407-2023

Date of Decision: 29.05.2023

Bably

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Dheeraj Narula, Advocate, for the petitioner.

Mr. B.S. Virk, Sr. Deputy Advocate General, Haryana.

Rajesh Bhardwaj, J.

Prayer in the present petition is for quashing of order dated 07.06.2022 (Annexure P-7) passed by the learned JMIC, Sirsa in complaint No.NACT-682-2020, dated 15.07.2020 in a case titled as Manish Kumar Jindal vs. Bably, vide which the petitioner was declared as “proclaimed person” and further quashing of FIR No.756, dated 01.09.2022, registered under Section 174-A IPC, at Police Station Civil Lines, Sirsa.

Learned counsel for the petitioner has fairly submitted before this Court that the petitioner was prosecuted in a complaint filed under Section 138 of the Negotiable Instruments Act for a cheque amount of Rs.50,000/-. He has submitted that after having filed complaint, the petitioner has duly paid the cheque amount and in view of the same, the complaint has also been withdrawn vide order dated 05.09.2022 (Annexure P-9). He has submitted that as the main complaint filed has already been withdrawn on the basis of the compromise, prosecution of the petitioner in the impugned FIR registered under Section 174-A would be totally an abuse of the process of the Court.

Notice of motion.

Mr. B.S. Virk, Sr. Deputy Advocate General, Haryana, accepts notice on behalf of the State and contends that the petitioner was rightly declared as proclaimed person, pursuant to which FIR No.756 dated 01.09.2022, under Section 174-A of IPC, at Police Station Civil Lines, Sirsa was registered against the petitioner and the petitioner is liable to be prosecuted.

I have heard counsel for the parties and perused the record. It is apparent that the present FIR was registered due to non-appearance of the petitioner and she was declared as a proclaimed person vide order dated 07.06.2022. As submitted before this Court, the petitioner has paid the cheque amount and the complaint also stands withdrawn. As complaint root cause of litigation itself has already been withdrawn by the complainant, so continuation of the proceedings under Section 174-A of IPC would not serve any purpose. A coordinate 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.”

A similar view has been taken by this Court in “Anil Kumar Versus Jitender Kumar and another, CRM-M-5878- 2022 decided on 06.04.2022” and “Varinder Kumar @ Virender Kumar Versus State of Haryana and another, CRM-M-42551-2021 decided on 19.04.2022.

So, keeping in view the above-said facts, it is clear that the FIR was registered on account of absence of the petitioner and now the petitioner has paid the cheque amount and the complaint has already been withdrawn as is clear from Annexure P-9. In view of the fact that the main matter has already been withdrawn, the continuation of the proceedings under Section 174-A of IPC shall serve no useful purpose. Keeping in view the law settled, the order dated 07.06.2022 (Annexure P-7) passed by the learned JMIC, Sirsa, whereby, the petitioner was declared Proclaimed Person along with subsequent proceedings arising out of the same including FIR No.756, dated 01.09.2022, registered under Section 174-A IPC, at Police Station Civil Lines, Sirsa are quashed.

Petition stands disposed of.

29.05.2023
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Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No