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

CRM-M-27810-2023

Date of Decision: May 31, 2023

M/s Arun Dev Builders Ltd.

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Munish Behl, Advocate
for the petitioner.

.....

RAJESH BHARDWAJ, J.(ORAL)

This petition has been filed by the petitioner for quashing of FIR No.2536 dated 31.12.2022, Annexure P-3), registered under Section 174-A IPC at Police Station Shivaji Nagar, District Gurugram alongwith all consequential proceedings arising therefrom.

Learned counsel for the petitioner has contended that the petitioner/Company was prosecuted by respondent No.2 in Consumer Complaint No.247 of 2015 under the provisions of Consumer Protection Act and the same was partly allowed vide order dated 29.04.2016. Complainant/respondent No.2 filed an Execution Applicaton No.105 of 2016 before learned District Consumer Disputes Redressal Commission, Gurugram, for enforcement of order dated 29.04.2016. He further submits that vide order dated 30.08.2022 due to non-appearance of petitioner/Company, it was declared as proclaimed person/offender and a direction was issued to the SHO concerned for registration of a case under Section 174-A of IPC against the petitioner, pursuant to which the above-mentioned FIR was registered against the petitioner/company.

Learned counsel for the petitioner has stated that the parties have now compromised the matter and complainant/respondent No.2 has received Rs.1.00 lakh and nothing is due against the petitioner/Company. It is further submitted that as per compromise, respondent No.2 has admitted that all his claims against petitioner/Company stand fully satisfied and he would withdraw his execution application also. He has further stated that complainant/respondent No.2 has also sworn an affidavit dated 06.04.2023 wherein he has pleaded that he will have no objection if the FIR is quashed. It is further submitted that in view of the settlement between the parties, prosecution of the petitioner/company would be nothing but an abuse of the process of the Court and thus, order dated 30.08.2022 as well as above-mentioned FIR be quashed. He has further stated that the petitioner is ready to join the proceedings.

Notice of motion.

On asking of the Court, Mr.B.S.Virk, Sr.DAG, Haryana, who is present in Court, accepts notice on behalf of respondent/State and submits that petitioner was rightly declared as a proclaimed person/offender, pursuant to which above-mentioned FIR was registered against it and the petitioner is liable to be prosecuted whereas Mr.Parveen Sharma, Advocate, accepts notice on behalf of respondent No.2 and has affirmed the contentions raised by learned counsel for the petitioner/Company and has pleaded no objection if the present petition is decided in view of the compromise.

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 it was declared as a proclaimed person/offender in the Execution application. Thereafter, the matter was settled between the parties and the petitioner has paid the entire amount to the complainant and as per settlement, he will withdraw his execution application. As the matter has already been compromised and the complainant has already received the amount in question and he has also given an affidavit that he would withdraw his Execution Application, continuation of the proceedings under Section 174-A of IPC would not serve any purpose as the root cause of controversy i.e. Execution Application would be withdrawn. 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**

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 and the law settled, as the matter has already been compromised and the complainant/respondent No.2 has received the amount in question, continuation of the proceedings under Section 174-A of IPC shall be an abuse of the process of the Court. Consequently, present petition is allowed subject to costs of Rs.10,000/- to be deposited in the High Court Bar Association Welfare Fund, Chandigarh, within a period of seven days from today. The order dated 30.08.2022 (Annexure P-2) passed in Execution Application No.EA/105/2016 in Complaint Case No.CC/247/2015, whereby he was declared a Proclaimed Person/offender by District Consumer Disputes Redressal Commission, Gurugram, along with subsequent proceedings arising out of the same including FIR No.2536 dated 31.12.2022, under Section 174-A of IPC, at Police Station Shivajit Nagar, District Gurugram, is quashed.

In case, the petitioner appears and surrenders before the Court concerned within a period of 10 days from today and produce receipt of abovesaid costs and files an application for bail, the Court concerned would grant it bail to its satisfaction. Needless to say that in case the petitioner fails to comply with the abovesaid direction, he will have no benefit of abovesaid relief granted by this Court and order dated 30.08.2022 would come in force.

May 31, 2023

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(RAJESH BHARDWAJ)

JUDGE

1. Whether speaking/reasoned ?

Yes/No

2. Whether reportable ?

Yes/No