

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

CRM-M-27595-2023

Decided on:-29.05.2023

Ravinder Kumar

....Petitioner..

VS.

State of Haryana and another

....Respondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Lupil Gupta, Advocate for the petitioner.

Mr. R.K. Ambavta, AAG, Haryana.

HARKESH MANUJA J. (Oral)

1. This is a petition filed under Section 482 of Cr.P.C. for quashing of order dated 26.10.2022 (Annexure P-4) vide which the Judicial Magistrate Ist Class, Sirsa had declared the present petitioner as proclaimed person as well as FIR No.1094 dated 01.12.2022, registered under Section 174-A of IPC at Police Station Civil Line, Sirsa along with all subsequent proceedings arising therefrom.

2. Learned counsel for the petitioner has submitted that complainant had filed a complaint against the present petitioner i.e. complaint No.NACT-585-2021 on account of dishonour of cheque and in the said proceedings, the petitioner was declared as proclaimed person vide order dated 26.10.2022 (Annexure P-4) and the Judicial Magistrate Ist Class, Sirsa had directed the concerned SHO to register the FIR under Section 174-A of the IPC and in pursuance of the same, the impugned FIR has been registered. It is further submitted that the petitioner has already paid the

cheque amount and the matter has been compromised and the complainant has withdrawn its complaint filed under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter to be referred as “the Act of 1881”) and the said fact is apparent from the order dated 01.12.2022 (Annexure P-7). It is contended that once the complaint under Section 138 of the Act of 1881 is withdrawn, then no purpose is served by keeping the proceedings under Section 174-A of the IPC alive and even the order declaring the petitioner as proclaimed person has lost its significance as the main case itself has been withdrawn.

3. On the other hand, learned State Counsel has opposed the present petition and submitted that FIR has been rightly registered on the directions issued by the Judicial Magistrate Ist Class and thus, the present petition deserves to be dismissed.

4. This Court has heard learned counsel for the parties and perused the paper book.

5. A co-ordinate Bench of this Court in **CRM-M-43813-2018** titled as “**Baldev Chand Bansal vs. State of Haryana and another**”, decided on 29.01.2019 has held as under:-

“Prayer in this petition is for quashing of FIR No.64 dated 15.02.2017 filed under Section 174-A of the Indian Penal Code registered at Police Station Sector-5, Panchkula and all other subsequent proceedings arising thereof as well as order dated 24.10.2016 passed by the trial Court vide which a direction was issued to register the aforesaid FIR.

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*Learned counsel for the petitioner has relied upon the decisions rendered by this Court in “ **Vikas Sharma vs. Gurpreet Singh Kohli and another (supra)**, 2017, (3) L.A.R.584, **Microqual Techno Limited and others Vs. State of Haryana***

and another, 2015 (32) RCR (Crl.) 790 and “*Rajneesh Khanna Vs. State of Haryana and another*” 2017(3) L.A.R. 555 wherein in an identical circumstance, this Court has held that since the main petition filed under Section 138 of the Act stands withdrawn in view of an amicable settlement between the parties, therefore, continuation of proceedings under Section 174A of IPC shall be nothing but an abuse of the process of law.

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In view of the same, I find merit in the present petition and accordingly, present petition is allowed and the impugned order dated 24.10.2016 passed by Judicial Magistrate, 1st Class, Panchkula as well as FIR No.64 dated 15.02.2017 registered under Section 174-A of the Indian Penal Code at Police Station Sector-5, Panchkula and all other subsequent proceedings arising thereof, are hereby quashed.”

A perusal of the above judgment would show that in a similar case where the FIR had been registered under Section 174-A of the IPC in view of the order passed in proceedings under Section 138 of the Act of 1881, which declared the petitioner therein as proclaimed offender, a coordinate Bench after relying upon various judgments observed that once the main complaint under Section 138 of the Act of 1881 stands withdrawn in view of an amicable settlement between the parties, the continuation of *proceedings under Section 174-A of the IPC is nothing but an abuse of the process of law*. The said aspect was one of the main consideration for allowing the petition and setting aside the order declaring the petitioner therein as proclaimed person as well as quashing of the FIR under Section 174-A of the IPC.

6. 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 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 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.

7. In the present case, complaint under Section 138 of the Act of 1881 has been filed against the present petitioner and it is in the said proceedings that the petitioner was declared as proclaimed person vide order dated 26.10.2022 (Annexure P-4) and the Judicial Magistrate Ist Class, Sirsa had directed that FIR be registered under Section 174-A of the IPC and in pursuance of the same, the present FIR has been registered. A perusal of the order dated 01.12.2022 (Annexure P-7) would show that the complaint filed by complainant under Section 138 of the Act of 1881 against the present petitioner has been withdrawn as accused-petitioner has made the payment of the cheque amount.

8. Keeping in view the abovesaid facts and circumstances, as well as the law laid down in the abovesaid judgments, the present petition is allowed and FIR No.1094 dated 01.12.2022, registered under Section 174-A of IPC

at Police Station Civil Line, Sirsa as well as all the subsequent proceedings arising therefrom are quashed and order dated 26.10.2022 (Annexure P-4) vide which the Judicial Magistrate Ist Class, Sirsa had declared the present petitioner as proclaimed person, is set aside.

9. The aforesaid order shall be subject to payment of costs of Rs.20,000/- to be deposited with the Mother Teresa’s Missionaries of Charity, Sector 23, Chandigarh, within a period of two weeks from today.

29.05.2023
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(HARKESH MANUJA)
JUDGE

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