

**201 THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-6664-2018****Date of Decision: 25.04.2023****Ram Lal****...Petitioner****V/s****State of Haryana and another****...Respondents****CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA****Present:** Mr. R.K. Handa, Advocate
for the petitioner.

Mr. Karan Garg, AAG, Haryana.

**********DEEPAK MANCHANDA J.**

By way of present petition, the petitioner is seeking quashing of FIR No.0110 dated 11.07.2017 (Annexure P-1) registered under Section 174-A IPC at Police Station Raipur Rani, District Ambala, proclamation order dated 07.07.2017 (Annexure P-2) passed by JMIC, Panchkula and subsequent proceedings arising therefrom.

Learned counsel for the petitioner contends that petitioner was serving in Haryana Police and retired as Head Constable in the year 2009 and when the petitioner was posted at Police Post Mauli, PS Raipur Rani, District Ambala, an FIR No.46 dated 12.02.2003 was registered against accused persons, namely, Parveen Kumar, Rakesh and Ram Kumar. After conclusion of trial accused Rakesh and Ram Kumar were acquitted vide order dated 22.12.2010 but accused Parveen Kumar was declared as proclaimed person vide order dated 27.08.2010 by the trial Court and later on he was arrested on 15.03.2017 and produced before the trial Court and the petitioner was summoned as prosecution witness. Accordingly, the petitioner appeared on 21.04.2017 and examined. Petitioner stated that his examination be read as it is as given earlier on 29.09.2010 and 01.10.2010 in the trial Court of other co-accused Rakesh and Ram Kumar.

Learned counsel further contends that now petitioner has come to know that vide order dated 07.07.2017, the petitioner has been declared as proclaimed person by Judicial Magistrate First Class, Panchkula. Learned counsel submits that from the information received through RTI Act, it was informed that petitioner appeared on 21.04.2017 and his examination-in-chief was recorded and his cross-examination was deferred. Thereafter, the petitioner did not receive any summon from the concerned Court after 21.04.2017 and he was under the impression that he has already stated on 21.04.2017 that his examination be read as it is as given earlier on 29.09.2010 and 01.10.2010 in the trial Court of other co-accused Rakesh and Ram Kumar. The petitioner was cited as prosecution witness in the concerned case and regarding declaring proclaimed person, the mandatory provision for compliance of Section 82 of Cr.P.C., is not complied with as no publication has been issued in any local newspaper where the petitioner was residing and the order dated 07.07.2017 is against the settled principles of law. It is further submitted that accused Parveen Kumar has already been acquitted vide order dated 20.07.2017 by the trial Court.

Learned State counsel has admitted the fact that third accused namely, Parveen Kumar has been acquitted by the trial Court vide order dated 20.07.2017.

In view of the facts and circumstances as pleaded by the parties, it is apparent that the present FIR came into existence owing to the petitioner having been declared proclaimed person in the trial proceedings against the accused namely, Parveen Kumar and the petitioner was only a prosecution witness in that case. The said accused already stands acquitted. Thus the question would arise as to whether the proceedings under Section 174-A IPC should be allowed to continue after compounding of offence under which accused was declared

proclaimed offender or not? The said question is no more *res-integra* and already stands settled by the Co-ordinate Bench of this Court in CRM-M-43813-2018 titled as “**Baldev Chand Bansal Vs. State of Haryana and another**” vide order dated 29.01.2019, which 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.”

Same is the view of another Co-ordinate Bench in the “**Ashok Madaan vs. State of Haryana and another**” reported as 2020 (4) RCR (Criminal) 87,

wherein it has been held that:

“No doubt, the learned counsel for the respondent has vehemently argued that the offence under Section 174-A 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.”

Keeping in view the facts and circumstances of the case and in view of the principles settled by various Courts, the present petition is allowed and FIR No.0110 dated 11.07.2017 (Annexure P-1) registered under Section 174-A IPC at Police Station Raipur Rani, District Ambala, proclamation order dated 07.07.2017 (Annexure P-2) passed by JMIC, Panchkula and subsequent proceedings arising therefrom is hereby quashed qua the petitioner.

(DEEPAK MANCHANDA)
JUDGE

25.04.2023
Sapna

Whether reasoning given	Yes
Whether reportable	Yes/No