

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

CRM-M-27824-2023

Date of Decision: 30.05.2023

Shagan Lal

..... Petitioner

Versus

Kirpal Singh and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Sushil Kumar Verma, Advocate, for the petitioner.

Rajesh Bhardwaj, J. (Oral)

Prayer in the present petition is for quashing of FIR No.1004 dated 09.11.2022, registered under Section 174-A IPC, at Police Station Civil Lines Sirsa, District Sirsa, arising from impugned order dated 13.09.2022 passed by the learned JMIC, Sirsa in case CIS No.NACT-321 of 2020 titled as Kirpal Singh vs. Shagan Lal, whereby the petitioner was declared as proclaimed person.

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.4,50,000/-. He has submitted that after filing of complaint, the petitioner has duly compromised the matter and paid the cheque amount and in view of the same, the complaint has also been withdrawn vide order dated 06.03.2023 (Annexure P-6). He has submitted that as the main complaint filed has already been withdrawn on the basis of the compromise, prosecution of the petitioner in the impugned FIR registered under Section 174-A would be totally an abuse of the process of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.1004 dated 09.11.2022, under Section 174-A IPC, at Police Station Civil Lines Sirsa, District 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 he was declared as a proclaimed person vide order dated 13.09.2022. As submitted before this Court, the petitioner has paid the entire cheque amount to the complainant and the complaint also stands withdrawn. As complaint which is root cause of litigation itself has already been withdrawn by respondent No.1 so continuation of the proceedings under Section 174-A of IPC would not serve any purpose.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 entire cheque amount and the complaint has already been withdrawn as is clear from Annexure P-6. 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 13.09.2022 (Annexure P-3) 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.1004 dated 09.11.2022, registered under Section 174-A IPC, at Police Station Civil Lines Sirsa, District Sirsa are quashed subject to payment of Rs.25,000/- as costs to be deposited with the Poor Patients' Welfare Fund, PGIMER, Chandigarh by the petitioner within a period of 7 days from today.

As the main complaint case has already been withdrawn and nothing is pending before the trial Court, so the petitioner is directed to file receipt of above costs within a period of 10 days from today before the Registry of this Court. Failing which the office is directed to list the present

case as IOIN in the motion list for further orders.

Petition stands disposed of.

30.05.2023
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE
:
:
Yes/No
Yes/No