

2023:PHHC:144524

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM M-28820 of 2023
Date of Decision: 15.11.2023

Manjod Singh @ Manjot Singh ...Petitioner
Vs.
State of Haryana and another ...Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Harsh Mehla, Advocate for
Mr. Sunny Tyagi, Advocate, for the petitioner.

Mr. Gaurav Gurcharan Singh Rai, DAG, Haryana.

Mr. Abhinav Sood, Advocate, for respondent No. 2.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 482 Cr.P.C. with a prayer to quash the impugned order dated 27.11.2017 (Annexure P-1) passed by the Court of Judicial Magistrate 1st Class, Panipat, whereby, the present petitioner has been declared to be a proclaimed person in a complaint case CIS No. NACT-1096 dated 29.04.2017 titled as “**HDFC Bank Ltd. Vs. Manoj Singh**” . A further prayer has been made to quash the FIR No. 419 dated 26.03.2018 under Section 174-A IPC registered at Police Station

Panipat City, District Panipat (Annexure P-2) and all subsequent proceedings arising therefrom.

2. The brief facts of the case are that in the year 2015, the petitioner approached the HDFC Bank (respondent No. 2) for two wheeler loan facility and a loan agreement was executed between the petitioner and respondent No.2/complainant and the petitioner had issued a security cheque to respondent No. 2. In the year 2017, due to some financial problems, the petitioner failed to pay the few installments to the respondent/bank and the respondent/bank presented the cheque of Rs. 10,770/-, which was dishonored due to “insufficient funds” in the account of the petitioner. Later on, the respondent No. 2 filed a complaint under Section 138 of the Negotiable Instruments Act 1881 (hereinafter to be referred as '**the Act**') against the petitioner in the Court of Judicial Magistrate 1st Class, Panipat. After the issuance of the process, the petitioner could not appear before the Court and was declared to be a proclaimed person vide order dated 27.11.2017 (Annexure P-1). Later on, a FIR No. 419 dated 26.03.2018 under Section 174-A IPC Police Station Panipat City, District Panipat (Annexure P-2) was ordered to be registered against the present petitioner.

3. Learned counsel for the petitioner contends that the petitioner had paid whole amount till 31.08.2017 to the respondent No. 2 and this fact could not be disclosed by the respondent No. 2 to the trial Court. Learned counsel contends that even the name of the

petitioner was wrongly mentioned as Manoj Singh instead of Manjod Singh. Consequently, the petitioner did not get any notice from the trial Court and could not be served in the present case. However, he had settled the loan account with the respondent/bank and had made whole payment till 31.08.2017. The petitioner came to know about the registration of the FIR (Annexure P-2) and he immediately contacted the bank and requested the bank to withdraw the complaint against him. Consequently, on 04.05.2022, the respondent No. 2 had withdrawn the complaint under Section 138 of the Act and the petitioner was ordered to be acquitted by the trial Court. Learned counsel for the petitioner contends that since the main offence has already been compromised between the parties, the continuation of proceedings arising from FIR No. 419 dated 26.03.2018 under Section 174-A IPC registered at Police Station Panipat City, District Panipat (Annexure P-2) would be an abuse of process of law and are liable to be quashed by this Court.

4. Learned counsel appearing on behalf of respondent No. 2 submits that he has no objection in case the the impugned order dated 27.11.2017 (Annexure P-1) passed by the Court of Judicial Magistrate 1st Class, Panipat and the FIR No. 419 dated 26.03.2018 under Section 174-A IPC registered at Police Station Panipat City, District Panipat (Annexure P-2) and all subsequent proceedings arising therefrom are quashed by this Court.

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.”

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

7. 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.”

8. In the present case also, the proceedings under the Negotiable Instrument Act have already been settled and vide order dated 04.05.2022 the complaint has already been withdrawn by the complainant. Consequently, the continuation of the proceedings arising from the impugned order dated 27.11.2017 (Annexure P-1) and the FIR No. 419 dated 26.03.2018 under Section 174-A IPC,

registered at Police Station Panipat City, District Panipat (Annexure P-2) would be an abuse of process of the Court. Similar observations have been made by this Court in the matter of “Anil Kumar Versus Jitender Kumar and another, CRM-M- 5878-2022 decided on 06.04.2022”, “Anil Kumar Versus Jitender Kumar and another, CRM-M-5755-2022 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”.

9. In view of the above, the present petition is allowed and impugned order dated 27.11.2017 (Annexure P-1) and the FIR No. 419 dated 26.03.2018 under Section 174-A IPC, registered at Police Station Panipat City, District Panipat (Annexure P-2) alongwith all subsequent proceedings arising therefrom are hereby ordered to be quashed.

15.11.2023

(N.S.SHEKHAWAT)

amit rana

JUDGE

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