

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

CRM-M-33230-2021

Date of Decision: 10.05.2023

Satyabir Singh @ Satbir

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Premjit S. Hundal, Sr. Advocate with
Mr. Vikramjeet Singh, Advocate, for the petitioner.
Mr. B.S. Virk, Deputy Advocate General, Haryana.
Mr. Mukesh Yadav, Advocate, for the complainant.

Rajesh Bhardwaj, J.

Prayer in the present petition is for quashing of order dated 09.10.2019 passed by the learned SDJM, Kanina, District Mahendergarh, vide which the petitioner was declared as “proclaimed person” and FIR No.64, dated 16.02.2021, registered under Section 174-A IPC, at Police Station Kanina, District Mahendergarh.

It has been submitted by learned senior counsel that the petitioner has been falsely implicated in this FIR only being the brother of co-accused Sunil. He submits that the petitioner had been granted bail by this Court. It is submitted that both the petitioner and his brother were illegally declared proclaimed persons. He submits that now both the accused i.e. Satbir and Sunil are on bail and both are regularly appearing before the trial Court and thus, prosecution of the petitioner in the impugned FIR registered under Section 174-A would be totally an abuse of the process of the Court.

Learned State counsel on the other hand contends that the

petitioner was rightly declared as proclaimed person, pursuant to which FIR No.64 dated 16.02.2021, under Section 174-A of IPC, at Police Station Kanina, District Mahendergarh was registered against the petitioner and the petitioner is liable to be prosecuted. However, on instructions he has submitted that both the petitioner and his brother Sunil appearing before the trial court in the main case.

Learned counsel for the complainant has affirmed the fact that the petitioner is on bail and he is regularly appearing before the trial Court.

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 09.10.2019. As submitted before this Court, both the accused i.e. the petitioner and his brother both are on bail and regularly appearing before the trial Court. As the petitioner is on bail and is regularly appearing before the trial Court, 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 which was subsequently regularized on his appearance after he was granted bail by the Court. Continuation of the proceedings under Section 174-A of IPC shall be abuse of the process of the Court. It will be appropriate if the petitioner is directed to face trial in the main case. Keeping in view the law settled, and the order dated 09.10.2019 (Annexure P-1) passed by the learned SDJM, Kanina, whereby, the petitioner was declared Proclaimed Person along with subsequent proceedings arising out of the same including FIR No.64 dated 16.02.2021, under Section 174-A of IPC, at Police Station Kanina, District Mahendergarh is quashed, subject to payment of Rs.25,000/- to be deposited by the petitioner with the Poor Patients' Welfare Fund, PGIMER, Chandigarh within a period of four weeks from today. The petitioner will keep on appearing before the trial Court as per its directions.

The petitioner is also directed to produce the receipt regarding deposit of above said costs in the Registry of this Court within a period of five weeks from today. In case of his failure to do so, the Registry is

directed to list the present case after five weeks from today as IOIN for an appropriate order.

Petition stands disposed of.

10.05.2023

sharmila

Whether Speaking/Reasoned

Whether Reportable

:

:

Yes/No

Yes/No

(RAJESH BHARDWAJ)

JUDGE