

124

2023:PHHC:080077
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.28446 of 2023
Date of decision : 01.06.2023

Rajesh Kumar

.....Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Namit Khurana, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (Oral)

This petition has been filed under Section 482 Cr.P.C. by the petitioner for quashing of FIR No.0292 dated 01.03.2017, registered under Section 174-A IPC, at Police Station Jagadhri City, District Yamuna Nagar, alongwith all consequential proceedings arising therefrom.

Learned counsel for the petitioner has contended that the petitioner was prosecuted by the complainant in Complaint No.NIA/702 of 2016 dated 07.04.2016. He submits that the petitioner did not have any knowledge about the abovesaid complaint and he was not served on his address, thus, due to this reason, the petitioner could not appear before the trial Court and bailable warrants got issued against him. Thereafter, vide order dated 23.11.2016, proclamation was issued against the petitioner and summoned him under Section 82 Cr.P.C. for 27.01.2017. It has been submitted that thereafter, statement of tamili official was recorded wherein it was stated that he did not find the whereabouts of the petitioner and one copy of publication was pasted at address of petitioner on 20.01.2017.

However, learned trial Court recorded in the order dated 27.01.2017 that as per the statement of tamili, proclamation under Section 82 Cr.P.C. issued against the petitioner received back duly served. Further, it has been submitted that vide order dated 20.02.2017, learned Judicial Magistrate Ist Class, Jagadhri, Yamuna Nagar declared the petitioner as proclaimed person/offender and a direction was issued to the SHO concerned for registration of a case under Section 174-A of IPC against the petitioner, pursuant to which the abovementioned FIR was registered against the petitioner/company.

Learned counsel for the petitioner has stated that the parties have now compromised the matter and nothing is due against the petitioner. It is further submitted that as per compromise, complainant has withdrawn his complaint as his claim has been fully satisfied. It is further submitted that in view of the settlement between the parties, prosecution of the petitioner/company would be nothing but an abuse of the process of the Court and thus, order dated 20.02.2017 as well as abovementioned FIR be quashed. He has further stated that the main complaint already stands withdrawn vide order dated 15.05.2023 (Annexure P-5).

Notice of motion.

On asking of the Court, Mr. B. S. Virk, Sr. DAG, Haryana, who is present in Court, accepts notice on behalf of respondent/State and submits that petitioner was rightly declared as a proclaimed person/offender, pursuant to which above-mentioned FIR was registered against it and the petitioner is liable to be prosecuted for the same as he failed to appear before the Court on the date fixed before it.

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 who was declared as a proclaimed person/offender in the complaint. Thereafter, the matter was settled between the parties and as per settlement, the complainant has already withdrawn his complaint vide order dated 15.05.2023. As the main matter has already been compromised, continuation of the proceedings under Section 174-A of IPC would not serve any purpose as the root cause of controversy i.e. complaint already stands withdrawn as is clear from Annexure P-5 i.e. order dated 15.05.2023. 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 and the law settled, when the matter has already been compromised, continuation of the proceedings under Section 174-A of IPC shall serve no purpose. Consequently, present petition is allowed subject to costs of Rs.15,000/- to be deposited in the **High Court Bar Association Welfare Fund, Chandigarh**, within a period of seven days from today. The order dated 20.02.2017 (Annexure P-4) passed in Complaint Case No.NIA/702/2016, whereby he was declared a Proclaimed Person/offender by Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri, along with consequential proceedings arising out of the same including FIR No.0292 dated 01.03.2017, under Section 174-A of IPC, at Police Station Jagadhri City, District Yamuna Nagar, is quashed.

As nothing is pending against the petitioner before the trial Court so he is directed to produce the receipt of abovesaid costs before the Registry of this Court within a period of 10 days from today. In case the petitioner fails to comply with the abovesaid direction, the Registry is directed to list the present case in the motion list as in IOIN after a period of 10 days from today for further orders.

Petition stands disposed of.

(**RAJESH BHARDWAJ**)
JUDGE

01.06.2023
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No