

(135) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-29317-2023
Date of Decision:02.06.2023

Pankaj Dayal

... Petitioner

Vs.

State of Haryana and another

... Respondents

CORAM : HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present : Mr. Sunil Chadda, Sr. Advocate with
Mr. Tara Dutt, Advocate for the petitioner.

SANDEEP MOUDGIL, J. (Oral)

The instant petition under Section 482 Cr.P.C has come before this Court to quash order dated 25.01.2023 passed by learned Judicial Magistrate Ist Class, Panchkula as well as FIR No.70 dated 12.02.2023, under Section 174-A IPC registered at Police Station Sector-7, Panchkula, District Panchkula and all the subsequent proceedings arising therefrom.

Learned senior counsel for the petitioner at the very out-set submitted that matter between the parties have been resolved by making payment qua the cheque in question which is pending for encashment. To await the encashment and to ensure that the cheque is not dishonoured again, the matter has been adjourned to 05.07.2023 on which date there is possibility of disposal of the said complaint in view of the compromise arrived at between the parties. On the strength of the aforesaid assertion, quashing of order dated 25.01.2023 passed by Judicial Magistrate First Class, Panchkula as well as FIR No.71 dated 13.02.2023 registered under Section 174-A of IPC at Police Station Sector-7 has been sought for.

Notice of motion.

On advance notice, Mr. G.S. Chinna, A.A.G. Haryana, who is present

in the Court accepts notice on behalf of the State and does not controvert the

factual aspect as stated by the learned counsel for the petitioner to the effect that matter has been compromised.

Heard.

From the record, it is apparent that the present FIR in question has been registered on account of the petitioner having been declared as proclaimed person vide order dated 25.01.2023 passed by Judicial Magistrate Ist Class, Panchkula, in the proceedings under Section 138 of the Act of 1881, which were instituted in pursuance of the complaint filed by Abhishek Gupta Karta of HUF Subhash Gupta and sons. However, as per submissions made by the counsel for the petitioner the matter has been settled between the parties and the complaint in question would be withdrawn.

A Co-ordinate Bench of this Court in CRM-M-43813-2018 titled as **“Baldev Chand Bansal v. State of Haryana and another”** decided on 29.01.2019 has quashed the FIR under Section 174-A IPC holding 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 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 174-A of IPC shall be nothing but an abuse of process of law.

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In views of the same, I find merit in the present petition and accordingly,

present petition is allowed and the impurged order dated 24.10.2016 passed by Judicial Magistrate, Ist Class, Panchkula as well as FIR No.64 dated 05.02.2017 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.”

A perusal of the above judgment would show that in a similar case where the FIR had been registered under Section 174-A of the IPC in proceedings under Section 138 of the Act of 1881, while declaring the petitioner therein as proclaimed offender, this High Court having relied upon after relying upon various judgments, observed that once the main petition under Section 138 of the Act of 1881 stands withdrawn in view of an amicable settlement between the parties, the continuation of proceedings under Section 174-A of the IPC is nothing but an abuse of the process of law. The said aspect was one of the main consideration for allowing the petition and setting aside the order declaring the petitioner therein as proclaimed person as well as quashing of the FIR under Section 174-A of the IPC.

In another case titled as **Ashok Madan vs. State of Haryana and another**” reported as 2020 (4) RCR (Criminal) 87 also it has been held as under:

“No doubt, the learned counsel for the respondent has vehemently argued that the offence under Section 174A IPC 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 the absence from the proceedings in the main case which had been subsequently regularized by the Court while granting bail to the petitioner, the default stood condoned. In such circumstances, continuation of proceedings under Section 174A IPC 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 IPC at Police Station Kotwali, District Faridabad, as well as consequential proceedings shall stand quashed.”

Recently in another case in **CRM-M-52319-2021** as well on

15.12.2021 titled as **Sharvan Kumar Singh @ Sarvan Singh versus State of Haryana** our High Court quashed the proceedings under Section 174-A IPC on the ground that in the main complaint under Section 138 of the Act of 1881 were withdrawn after a compromise between the parties.

In the instant case in fact the parties have settled the dispute amicable involved in the complaint. The case in hand stands at much better footing where actually the dispute has been brought to an end and the parties are at peace. The continuation of proceedings under Section 174-A IPC will not only spark the dispute already resolved but will also consume the precious time of the Courts of law in dealing with the proceedings unwarrantedly. This Court deems and is of the considered opinion that the utmost endeavour shall be to bring an end to the dispute wherein it seems that ends of justice can be met rather than continuing the proceedings rather than mere technicalities despite the fact that the issue involved in the main complaint has finally come to an end.

In view of the discussion as recorded hereinabove and the case law adjudicated upon the identical issue in the aforesaid judgments, further proceedings in the FIR in question would only amount to be an abuse of the process of law. Accordingly, order dated 25.01.2023 passed by learned Judicial Magistrate Ist Class, Panchkula as well as FIR No.70 dated 12.02.2023, under Section 174-A IPC registered at Police Station Sector-7, Panchkula, District Panchkula and all the subsequent proceedings arising therefrom are hereby quashed.

The petition is allowed in the aforesaid terms.

(SANDEEP MOUDGIL)
JUDGE

02.06.2023
rajeev