

114(4)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-29814-2023

Date of Decision: June 06, 2023

PANKAJ DAYAL

...Petitioner

Versus

STATE OF HARYANA AND ANOTHER

...Respondent

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present:- Mr. Sunil Chadha, Senior Advocate with
Mr. Balkar Singh, Advocate and
Ms. Taanvi Dhull, Advocate
for the petitioner.

Mr. G.S. Chinna, A.A.G. Haryana.

SANDEEP MOUDGIL, J.(Oral)

The jurisdiction of this Court under Section 482 has been invoked for quashing of order dated 31.10.2022 (Annexure P-1) passed by JMIC, Panchkula in CrI. Complaint Case No. NACT-361-2016, filed under Section 138 of the Negotiable Instruments Act, 1881 titled as Karanjit Singh Dhillon Vs M/s Real Tech Construction Pvt Limited; whereby, the petitioner has been declared as proclaimed person and FIR NO. 0487 dated 05.11.2022, Under Section 174-A registered at P.S Sector-7, Panchkula, District Panchkula, (Annexure P-2).

Learned counsel for the petitioner has submitted that in the present case, a complaint was filed against the petitioner under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter to be referred as “the Act of 1881”) and in the said complaint, the petitioner was declared as proclaimed person vide order dated 31.10.2022 (Annexure P-1). Further in pursuance to the said order an FIR NO. 0487 Dated 05.11.2022 Under Section 174A IPC was registered (Annexure P-2).

Learned counsel for the petitioner has further submitted that a compromise has been effected between the parties, which is annexed with the present petition as Annexure P-4. It is submitted that no useful purpose would be served by prosecuting the petitioner in the instant FIR once the dispute is being settled by the petitioner and continuance of the instant proceedings would only subject the petitioner to unwarranted and undesirable harassment of no intentional lapse.

Learned counsel for the petitioner has placed reliance upon the orders dated 20.07.2022 and 24.08.2022 respectively, passed by a coordinate Bench of this Court in **CRM-M-46062-2017**, titled as “**JatinDhawan and another versus State of Haryana and another**” and **CRM-M-12534-2022**, titled as “**Krishan Kumar versus State of Haryana and another**”, wherein it has been held that once the main case is dismissed as withdrawn the continuation of proceedings under Section 174-A IPC shall be an abuse of process of law.

He also placed reliance upon the orders of this Court dated 12.12.2022 and 13.12.2022 passed in **CRM-M-55634-2022** titled as **Jinder Singh Vs. State of Punjab and another** and **CRM-M-45051-2022** titled as **Hari Singh Meena Vs. State of Haryana.**

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 174-A 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 perusal of the relevant extract of the above judgment would show that where the main case was dismissed for want of prosecution, it was observed that the continuation of proceedings under Section 174-A of the IPC shall be an abuse of the process of court. Keeping in view the above-said facts and circumstances, the present petition is allowed and FIR NO.0487 dated 05.11.2022, Under Section 174A IPC (Annexure P-2) and (Annexure P1) whereby the petitioner was declared proclaimed person, with all subsequent proceedings arising therefrom, are hereby quashed qua the petitioner.

(SANDEEP MOUDGIL)
JUDGE

June 06, 2023
himanshu

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