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

**CRM-M-30767-2023
Date of decision : 10.10.2023**

PANKAJ DAYAL

....Petitioner

Versus

STATE OF HARYANA AND ANOTHER

....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Charitr Kadyan, Advocate for
Mr. Balkar Singh, Advocate for the petitioner.

Mr. R.K. Ambavta, AAG, Haryana.

Mr. IVS Pabla, Advocate for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition filed under Section 482 Cr.P.C., the petitioner is seeking quashing of order dated 31st of October, 2022 (Annexure P-1) passed JMIC, Panchkula declaring the petitioner to be a Proclaimed Person in case NACT/361/2018 dated 6th of March, 2018 titled as 'Karanjit Singh Dhillon vs. M/s Real Tech Construction Pvt. Limited' and for quashing of the consequential FIR No.0490 dated 5th of November, 2022 registered for the offence punishable under Section 174-A of the IPC, at Police Station Sector-7, Panchkula, District Panchkula (Annexure P-2) along with all proceedings subsequent thereto.

3. The petitioner herein was summoned to face trial for offence

punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the N.I. Act'). On account of his lapse, he was declared to be Proclaimed Person vide order dated 31st of October, 2023. On the basis thereof, the impugned FIR under Section 174-A IPC came into being.

4. It is not disputed by counsel representing the complainant/respondent No.2 that so far as the principal proceedings initiated against the petitioner for offence punishable under Section 138 of the N.I. Act stand settled and the complaint stands withdrawn after the complainant received whole of the cheque amount.

5. In the aforesaid circumstances, counsel for the petitioner contends that continuation of the present proceedings under Section 174-A IPC shall amount to an abuse of process of law.

6. Having heard counsel for the parties, in the considered opinion of this Court the question as to whether proceedings under Section 174-A IPC can be allowed to continue after the principal complaint filed under Section 138 of the N.I. Act already stands settled and withdrawn, is no more *res integra* and has been answered by a Co-ordinate Bench of this Court in **CRM-M-43813-2018** titled as “**Baldev Chand Bansal Vs. State of Haryana and another**” vide order dated 29th of Janaury, 2019, which 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."

7. Same is the view of another Co-ordinate Bench in the “**Ashok Madaan vs. State of Haryana and another**” reported as 2020 (4) RCR (Criminal) 87, wherein it has been held that:

“No doubt, the learned counsel for the respondent has vehemently argued that the offence under Section 174-A 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. Keeping in view the facts and circumstances of the present case and in view of the principles settled by this Court, the present petition is allowed. Order dated 31st of October, 2022 (Annexure P-1) passed JMIC, Panchkula declaring the petitioner to be a Proclaimed Person in case NACT/361/2018 dated 6th of March, 2018 titled as 'Karanjit Singh Dhillon vs. M/s Real Tech Construction Pvt. Limited' and for quashing of the consequential FIR No.0490 dated 5th of November, 2022 registered for the offence punishable under Section 174-A of the IPC, at Police Station Sector-7, Panchkula, District Panchkula (Annexure P-2) and all proceedings subsequent thereto, are hereby quashed *qua* the present petitioner.

October 10, 2023
Dpr

(Pankaj Jain)
Judge

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