

245 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-37316-2021
DECIDED ON: 3rd MAY, 2023

VIPUL KAUSHIK

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Anupam Bhardwaj, Advocate,
for the petitioner.

Mr. Ashok Kumar Sehrawat, DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

The jurisdiction of this Court under Section 482 has been invoked for quashing of FIR No. 16, dated 11.01.2021, under Section 174-A IPC, registered at Police Station Shivaji Nagar, District Gurugram with all consequential proceedings arising therefrom.

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 offender vide order dated 03.07.2017 and a direction was also sent to the concerned SHO to register an FIR under Section 174-A IPC. Accordingly, the afore-said FIR stands registered against the petitioner.

3. Learned counsel for the petitioner has further submitted that the petitioner has wrongly been declared proclaimed offender as from

15.06.2016 till 17.09.2018 he was lodged in Central Jail, Jaipur in connection with FIR No. RCBDI/2016/E/0002, dated 07.03.2016, registered under Section 120-B IPC read with Sections 409, 420, 467, 468, 471 IPC and Section 13(2) read with Section 3(1) (c) (d) of Prevention of Corruption Act, 1988 at Police Station CBI, BS and FC, New Delhi.

4. He further submits that vide order dated 09.12.2017 the complaint filed by the respondent-complainant stands dismissed as withdrawn and no useful purpose would be served by prosecuting the petitioner in the instant FIR once the dispute is being settled by the petitioner and continuance of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.

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Kumar versus State of Haryana and another***”, wherein it has been held that once the main case is dismissed as withdrawn the continuation of proceedings under Section 174-A IPC shall be an abuse of process of law.

6. 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.***

7. 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.”*

8. 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.

9. In the present case a compromise has been effected between the parties and once the parties has settled the dispute amicably then the continuance of the prosecution in the FIR under Section 174-A of IPC would be an abuse of the process of Court.

10. Keeping in view the above-said facts and circumstances, the present petition is allowed and FIR No. 16, dated 11.01.2021 (Annexure

P-8), under Section 174-A IPC, registered at Police Station Shivaji Nagar District Gurugram, whereby the petitioner was declared proclaimed offender, with all subsequent proceedings arising therefrom, are hereby quashed qua the petitioner.

(SANDEEP MOUDGIL)
JUDGE

3rd MAY, 2023
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| 1. Whether speaking/ reasoned : | Yes / No |
| 2. Whether reportable : | Yes / No |