

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

137

CRM-M-33737-2023 (O&M)

Date of decision: 17.07.2023

Lini Zachariah

...Petitioner

Versus

State of Haryana and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Mayank Aggarwal, Advocate for the petitioner

AMAN CHAUDHARY. J.

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.403 dated 14.02.2023 under Section 174-A IPC, 1860 registered at Police Station Shivaji Nagar, District Gurugram and impugned order dated 11.10.2022 passed by Judicial Magistrate 1st Class, Gurugram in Complaint No.NACT/3707/2018, whereby the petitioner has been declared as 'proclaimed person' under Section 82 Cr.P.C.

2. Learned counsel contends that the complaint was instituted by respondent No.2 before the Court at Gurugram, while the transactions had taken place in Thiruvananthapuram, Kerala. In other similar complaints lodged against the petitioner, she had filed a transfer application before the Hon'ble Supreme Court which was allowed and the proceedings were transferred to the Court at Thiruvananthapuram vide order dated 04.02.2022 (Annexure P-7). The petitioner had not received summons in the present complaint but an incorrect report was furnished with regard to the same. Had she been aware of the proceedings in the present complaint as well, an application would have been filed for its transfer, as in the other complaint. Be that as it may, the complaint in question has also been withdrawn by respondent No.2 vide order dated 21.02.2023 (Annexure P-6). The

continuation of the present proceedings would amount to abuse of process of Court.

He relies upon judgment of this Court in **Suaib vs. State of Haryana**, CRM-M-57100-2022 dated 09.12.2022.

3. Notice of motion.

4. Mr. Jagdish Manchanda, Addl. AG Haryana, appears on receipt of advance notice and has no objection to the prayer made in view of the withdrawal of the complaint.

5. In view of the nature of order which this Court proposes to pass, there is no necessity of calling upon any response from the respondent, as no order prejudicial to the rights of any party is being passed.

6. Heard.

7. It is apposite to refer to the order dated 21.02.2023, Annexure P-6, passed by the trial Court, whereby the complaint in question itself was ordered to be withdrawn, which reads thus:

“By separate statement of AR for complainant stated that on the instruction of complainant company, he does not want to pursue the present complaint. Kindly same be dismissed as withdrawn. In view of statement, AR for complainant is allowed to withdraw the present complaint. File be consigned to record room after due compliance.”

8. In similar set of facts and circumstances, while placing reliance on the judgments of **Microqual Techno Ltd. vs. State of Haryana**, 2015 (32) RCR (Criminal) 790; **Rajneesh Khanna vs. State of Haryana and another**, 2017 (3) L.A.R. 555, CRM-M32612 of 2020, **Surender Singh v. State of Haryana and another** decided on 12.01.2021, the proceedings initiated under Section 174-A IPC, were quashed by this Court in the case of **Murli Jha vs State of Haryana** 2021(3) R.C.R.(Criminal)563, by observing therein that, “I have considered the rival submissions of the parties. The FIR is an outcome of the order declaring the

petitioner as a proclaimed person in proceedings initiated under section 138 of NI Act which stands settled, the complaint has been withdrawn and the proceedings against the accused petitioner were dropped. In such circumstances, the continuation of prosecution under Section 174-A IPC in pursuance to orders passed by the trial Court cannot be permitted to continue.”

9. The FIR under Section 174A IPC is the consequence of declaring a person as a proclaimed person/offender, as the case may be. The basis of the same is the absence of the concerned from the Court, be it for any reason. Subsequently it having dawned on such person to join the proceedings; the Court extending him the concession of bail and the complaint itself being satisfied or culminated on any account, can all be factored to conclude that the very purpose of initiation of proclamation proceedings, that is to compel and secure the presence of the accused to face trial and establish the rule of law so as to ensure finalization of the proceedings pending between the parties, stands nonetheless achieved. In wake of the above, to permit the continuation of the FIR would amount to an abuse of the process of law.

10. In **Jugesh Sehgal vs. Shamsher Singh Gogi**, (2009) 14 SCC 683, Hon’ble The Supreme Court, with respect to the powers under Section 482 CrPC held that the same need to be exercised, where the Court is convinced, on the basis of material on record, that allowing the proceedings to continue would be an abuse of the process of the court.

11. Considering the facts and circumstances of the present case in light of the afore-referred judgments, this Court finds no justifiable reason to continue with the proceedings in the FIR.

12. Resultantly, the present petition is allowed. FIR No.403 dated 14.02.2023 under Section 174-A IPC, 1860 registered at Police Station Shivaji Nagar, District Gurugram and impugned order dated 11.10.2022 passed by Judicial Magistrate 1st Class, Gurugram in Complaint No.NACT/3707/2018, are hereby quashed.

(AMAN CHAUDHARY)
JUDGE

July 17, 2023
ashok

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No