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

CRM-M-42247-2023

Date of decision: 31.08.2023

Harmeet Singh and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Fariad Singh Virk, Advocate for the petitioners.

Mr. Rohit Bansal, Sr. DAG, Punjab.

Mr. Gurminder Singh Salana, Advocate for respondent No.2.

VIKAS BAHL, J. (ORAL)

1. This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.509 dated 20.12.2019 registered under Section 174-A of Indian Penal Code, 1860 (hereinafter to be referred as “the IPC”) at Police Station City Barnala, District Barnala and all the consequent proceedings arising therefrom.

2. Learned counsel for the petitioners has submitted that respondent No.2 had filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter to be referred as “the Act of 1881”), in which, the present petitioners were accused. It is further submitted that during the course of the said proceedings, the petitioners were declared as

proclaimed offenders vide order dated 02.07.2019 (Annexure P-2) and subsequent to the same, the matter has been compromised and the complaint filed by respondent No.2 has been withdrawn on 12.03.2022. Learned counsel for the petitioners has referred to the statement dated 11.02.2022 (Annexure P-5) as well as order dated 12.03.2022 (Annexure P-6) to highlight the fact that the complainant through his authorized representative Satwinder Singh, has affirmed the fact that the matter has been compromised and that the complaint has been withdrawn. It is contended that both the petitioners had been granted the concession of anticipatory bail in FIR registered under Section 174-A of the IPC and have thus, joined the proceedings in the FIR. It is further contended that now, the matter is fixed for 15.09.2023 for framing of the charges. It is argued that since the matter has been compromised and complaint under Section 138 of the Act of 1881 has been withdrawn, thus, the impugned FIR deserves to be set aside/quashed, as per settled law.

3. Learned counsel appearing on behalf of respondent No.2 has reaffirmed the fact that the matter has been compromised and he has no objection, in case the present FIR is quashed.

4. Learned State Counsel has submitted that although, the dispute with respect to the complaint under Section 138 of the Act of 1881 is between the petitioners and respondent No.2, but the FIR had been registered under Section 174-A of the IPC on account of petitioners not appearing in the proceedings under Section 138 of the Act of 1881. It is further submitted that the PO proceedings, in the present case, have already been dropped, as is apparent from Annexures P-5 and P-6 and in view of the

statements made by learned counsel for the petitioners and respondent No.2, the State would have no objection in case the present FIR is quashed.

5. This Court has heard the learned counsel for the parties and has perused the paper book.

6. A co-ordinate Bench of this Court in **CRM-M-43813-2018** titled as “**Baldev Chand Bansal vs. State of Haryana and another**”, decided on 29.01.2019 has 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 (CrI.) 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.”

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 view of the order passed in proceedings under Section 138 of the Act of 1881, declaring the petitioner therein as proclaimed offender, a co-ordinate Bench 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 considerations 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.

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 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.”

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 would be an abuse of the process of court.

8. In the present case, it is not in dispute that respondent No.2 had filed a complaint under Section 138 of the Act of 1881, in which the petitioners being partners of M/s New Kissan Tractors, were made an accused and they were declared as proclaimed offender vide order dated 02.07.2019 (Annexure P-2) by the trial Court. It is also not in dispute that complaint under Section 138 of the Act of 1881 has been withdrawn on account of the compromise, having been effected between the parties and the said fact is apparent from the statement dated 11.02.2022 (Annexure P-5) as well as order dated 12.03.2022 (Annexure P-6). A perusal of the same would also show that the authorized representative of respondent No.2 company had specifically stated that the compromise has been effected and thereafter, even the PO proceedings have been dropped. It is further not in dispute that the petitioners have been granted the concession of anticipatory bail even in the present FIR registered under Section 174-A of IPC. Learned

counsel for the complainant has also submitted that he has no objection in case the said FIR is quashed in view of said compromise and thus, in view of the abovesaid facts, keeping the proceedings under Section 174-A of the IPC alive, would be an abuse of process of law.

9. Keeping in view the abovesaid facts and circumstances, as well as the law laid down in the abovesaid judgments, the present petition is allowed and FIR No.509 dated 20.12.2019 registered under Section 174-A of the IPC at Police Station City Barnala, District Barnala and all the consequent proceedings arising therefrom are quashed/set aside.

10. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

31.08.2023*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:-****Yes/No****Whether reportable:-****Yes/No**