

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

**CRM-M-43990 of 2023
DATE OF DECISION :- 19.09.2023**

Pankaj Dayal

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Balkar Singh, Advocate for the petitioner.

Mr. Gurmeet Singh, Assistant Advocate General, Haryana.

PANKAJ JAIN, J. (Oral)

Reply by way of affidavit filed by Veer Singh, HPS, Deputy Superintendent of Police, City, Karnal has been filed. The same is taken on record.

2. The present petition has been filed seeking quashing of the order dated 7.6.2017, whereby the petitioner has been declared a proclaimed offender and F.I.R No. 651 dated 2.8.2018 under Section 174-A of Indian Penal Code, 1860, registered with Police Station Karnal Civil Lines, District Karnal on the basis of the said order.

3. The petitioner was summoned to face trial in a complaint filed for offence punishable under Section 138 of the Negotiable Instruments Act

against him and in the said proceedings the petitioner was declared proclaimed offender vide impugned order (Annexure P-1).

4. Learned counsel for the petitioner relies upon order dated 17.10.2018 passed by Judicial Magistrate Ist Class, Karnal to submit that the petitioner as well as complainant have compromised the dispute from which the complaint under Section 138 of the Negotiable Instruments Act arose.

5. Once the principal complaint itself stands compromised and withdrawn, the present proceedings arisen out of the same complaint for the reason that petitioner was declared proclaimed offender cannot be allowed to continue.

6. Issue with respect to offence under Section 174-A of the Indian Penal Code in the background of the fact that principal offence qua which the petitioner was facing prosecution and declared 'proclaimed person' shall already stand compromised and compounded, is no more res-integra as has been answered by the 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 29.01.2019, 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. The order dated 7.6.2017, whereby the petitioner has been

declared a proclaimed offender and F.I.R No. 651 dated 2.8.2018 under Section 174-A of Indian Penal Code, 1860, registered with Police Station Karnal Civil Lines, District Karnal are hereby quashed qua the petitioner.

(PANKAJ JAIN)
JUDGE

19.09.2023

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No