

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-63968-2023 (O&M)
Date of decision: 19.12.2023

Roshan Kumar Mandal

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Rishu Mahajan, Advocate for the petitioner.

VIKAS SURI, J. (Oral)

1. This is a petition under Section 482 Cr.P.C. for quashing of case FIR No.151 dated 22.05.2022, under Section 174-A IPC, registered at Police Station Cantonment, District Amritsar and all consequential proceedings arising thereof.

2. Briefly, the facts of the case are that petitioner was arraigned as an accused in a complaint filed under Section 138 of Negotiable Instruments Act, 1881 (for short 'NI Act') in the year 2018 and vide order dated 22.11.2018, he was summoned to face trial. The petitioner was never served in the said complaint case and as such was not aware about the pendency of the same. During the said period, the petitioner was in Malaysia. He relies upon the entries in his passport to show that he departed from Hyderabad on 26.08.2018 and on his arrival

on 22.09.2018, he again departed from New Delhi on 21.01.2019 to return on 25.05.2023. Only on his return in May 2023, he came to know that he has been declared as proclaimed offender vide order dated 02.05.2022 and registration of above captioned FIR was ordered. The petitioner approached this Court seeking quashing of the aforesaid order by way of CRM-M-52215-2023, which was disposed of directing the petitioner to appear and surrender before the trial Court granting him interim protection in the interregnum. Pursuant to the aforesaid direction, the petitioner appeared and surrendered before the trial Court on 20.10.2023 and was admitted to bail. In the meanwhile, the petitioner settled the complaint case with the complainant by making payment of the agreed amount by way of demand draft and in view of which, the complainant withdrew the complaint under Section 138 NI Act, as noticed in order dated 04.12.2023 (Annexure P-4).

3. Learned counsel for the petitioner has contended that as the complaint case in which petitioner was declared as proclaimed person vide order dated 02.05.2022, stands withdrawn on having been settled, the said order has merged in the final order dated 04.12.2023. The above captioned FIR has been registered in deference to the aforesaid order dated 02.05.2022.

4. Notice of motion.

5. Mr. G.S. Sidhu, AAG, Punjab, accepts notice on behalf of respondent-State and waives service. Learned State counsel submits that no formal reply is required to be filed. He further submits that the petitioner was rightly declared as proclaimed offender by the trial Court

leading to registration of FIR in question. However, it is not disputed by learned State counsel that the complaint filed under Section 138 of NI Act, having been withdrawn as settled, order dated 02.05.2022 whereby petitioner was declared as proclaimed offender, has since merged in the final order dated 04.12.2023 and that the petitioner already stands discharged in the said case.

6. Heard learned Counsel for the parties.

7. It is apparent from the record that the FIR in question was registered pursuant to order dated 02.05.2022 (Annexure P-3) passed in criminal complaint filed under Section 138 of NI Act. Thereafter, the complainant having realised the cheque amount chose not to further pursue his complaint and sought withdrawal thereof vide order dated 04.12.2023. Hence, continuation of proceedings under Section 174-A of IPC shall not serve any purpose.

8. A coordinate Bench of this Court in ***Ashok Madan vs. State of Haryana and another***, 2020 (4) RCR (Criminal) 87, has 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.

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.”

9. A similar view has been taken by this Court in CRM-M-5878-2022, titled *Anil Kumar vs. Jitender Kumar and another*, decided on 06.04.2022 and in CRM-M-42551-2021, titled *Varinder Kumar @ Virender Kumar vs. State of Haryana and another*, decided on 19.04.2022.

10. Keeping in view the above aspects and settled proposition of law, when the main complaint case stood withdrawn and consequently the accused stands discharged, continuation of proceedings under Section 174-A of IPC shall serve no useful purpose. In the light of the above, the present petition is liable to be accepted.

11. Resultantly, FIR No.151 dated 22.05.2022, under Section 174-A IPC, registered at Police Station Cantonment, District Amritsar (Annexure P-3) along with all consequential proceedings arising therefrom, are hereby quashed.

12. Disposed of.

December 19, 2023
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(VIKAS SURJ)
JUDGE

Whether speaking/reasoned :	Yes / No
Whether Reportable :	Yes / No