

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

CRM-M-64629-2023

Date of Decision: 21.12.2023

Parminderjeet Singh

.....Petitioner

Versus

State of Punjab and anr.

....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. A.S. Khosa, Advocate
for the petitioner.

PANKAJ JAIN, J. (ORAL)

1. Prayer is for quashing of order dated 01.05.2023, whereby the petitioner has been declared as proclaimed offender in complaint No. N.I. Act-9 of 2021 dated of Institution 08.01.2021 titled as Ravi Kumar Sharma Vs. Parminderjeet Singh (Annexure P-2), on the basis of compromise (Annexure P-3) and all subsequent proceedings arising therefrom.

2. The petitioner was ordered to be summoned to face trial qua offence punishable under Section 138 of the N.I Act in a complaint preferred by respondent No.2 after a cheque was issued by him was dishonored. The petitioner however evaded the process resulting into the passing of the order dated 01.05.2023, whereby the petitioner was ordered to be declared as proclaimed offender.

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3. Station House Officer, P.S. Division-1, Pathankot was ordered to initiate proceedings against the petitioner under Section 174-A of the Penal Code.

4. Learned counsel for the petitioner submits that though directions were issued however, FIR has not come into being as on date. He further submits that proceeding order cannot be initiated under Section 174-A of the Penal Code as nothing survives in view of the subsequent event i.e. withdrawal of the complaint. Reliance is being placed upon the order dated 29.11.2023 passed in National Lok Adalat observing that the complainant has suffered statement for withdrawing the complaint. Compromise deed has also been placed on record as (Annexure P-3).

5. On asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab appears and accepts notice on behalf of the respondent No.1-State and Mr. Sukhpal Singh, Advocate appears on behalf of respondent No.2 and filed his Vakalatnama, which is taken on record and admits the factum of compromise.

6. Question before this Court is whether the principle proceedings once settled and withdrawn, can Section 174-A of the Penal Code survives.

7. 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, held as under:

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3.

"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 "**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

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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. Impugned order dated 01.05.2023 and all subsequent proceedings arising therefrom are quashed qua the petitioner.

9. Pending application(s), if any, shall stand disposed of.

(PANKAJ JAIN)
JUDGE

21st December, 2023

spn

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No