

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-1801-2024
DECIDED ON: 16.01.2024

SUMAN DWIVEDI AND OTHERSPETITIONERS

VERSUS

STATE OF PUNJAB AND ANOTHERRESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sumeet Singh Brar, Advocate for
Mr. M.S. Chauhan, Advocate for the petitioners.

Mr. H.S. Sitta, DAG Punjab.

Mr. Malkiat S. Hundal, Advocate for respondent No.2.

SANDEEP MOUDGIL, J (ORAL)

This is a petition under Section 482 of Cr.P.C., for quashing the FIR No.7 dated 10.01.2018 (Annexure P-1), registered under Section 174-A of IPC at Police Station Bhargo Camp Jalandhar, Punjab and judgment of conviction and order of sentence dated 17.01.2023 (Annexure P-2) vide which the petitioners have been convicted, on the account that the main complaint under Section 138 of Negotiable Instruments Act filed by respondent No.2 stands withdrawn, as the matter has been amicably settled.

Learned counsel for the petitioner has submitted that in the present case, a complaint was filed against the petitioner under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter to be referred as “the Act of 1881”) and in the said complaint, the petitioner was declared as proclaimed person vide order dated 30.05.2017, in pursuant to which above-said FIR under Section 174-A of the IPC was registered. He further submits that in the above-said FIR, the

petitioner was convicted vide order dated 17.01.2023 (Annexure P-2) for a period of 6 months. As the complaint case under Section 138 of Act of 1881 was still pending, but in the meantime, the parties have amicably settled the dispute and have entered into a compromise dated 05.09.2023 (Annexure P-3).

Learned counsel for the petitioner states that the main complaint stands withdrawn by the complainant, in view of the compromise affected between the parties vide order dated 09.09.2023 (Annexure P-4).

Since the main complaint has been disposed of, as is evident from the perusal of aforesaid order passed by Judicial Magistrate 1st Class, Jagadhri and the offence between the petitioner and complainant is personal in nature not against the society at large, who have resolved their dispute, no fruitful purpose would be served by continuing the proceedings in the instant FIR No.7 dated 10.01.2018 , registered at Police Station Bhargo Camp Jalandhar for an offence under Section 174-A of IPC.

Learned counsel for the petitioner has placed reliance upon the orders dated 20.07.2022 and 24.08.2022 respectively, passed by a coordinate Bench of this Court in CRM-M-46062-2017, titled as ***“Jatin Dhawan and another versus State of Haryana and another”*** and CRMM-12534-2022, titled as ***“Krishan Kumar versus State of Haryana and another”***, respectively wherein it has been held that once the main case is dismissed as withdrawn, the continuation of proceedings under Section 174-A IPC shall be an abuse of process of law.

He has also placed reliance upon the orders of this Court dated 12.12.2022 and 13.12.2022 passed in CRM-M-55634-2022 titled as ***“Jinder Singh Vs. State of Punjab and another”*** and CRM-M-45051-2022 titled as ***“Hari Singh Meena Vs. State of Haryana”***, respectively in this regard.

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 174-A 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 174-A I.P.C. At Police Station Kotwali, District Faridabad, as well as consequential proceedings shall stand quashed.”

In the present case the complaint under Section 138 of the Act of 1881 has been dismissed as withdrawn. Once the impugned complaint has been dismissed as withdrawn then the continuance of the prosecution in the FIR under Section 174-A of IPC would be an abuse of the process of Court.

Keeping in view the above-said facts and circumstances, the present petition is allowed and FIR No.7 dated 10.01.2018, registered at Police Station Bhargo Camp Jalandhar for an offence under Section 174-A of IPC, as well as the order dated 17.01.2023 (Annexure P-2), with all subsequent proceedings arising therefrom, are hereby quashed qua the petitioner.

(SANDEEP MOUDGIL)
JUDGE

16.01.2024

Meenu

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