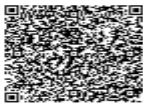


2024:PHHC:164604



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM M- 686 of 2022
Date of Decision: 10.12.2024

Brij Mohan ...Petitioner
Versus
State of Haryana and another ... Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Sansar Kundu, Advocate, for the petitioner.
Mr. Rajinder Kumar Banku, DAG, Haryana.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 482 of Cr.P.C. with a prayer to quash the impugned order dated 20.09.2021 (Annexure P-2) passed by the Court of Judicial Magistrate 1st Class, Safidon in case bearing No. NACT 272 dated 26.09.2016 titled as “**Rajesh Vashisht Vs. Brij Mohan**”, whereby, the petitioner has been declared as proclaimed person and further directions have been issued to the SHO for registration of the FIR under Section 174-A IPC.
2. Learned counsel for the petitioner contends that the respondent No. 2 had filed a complaint under Section 138 of the Negotiable Instruments Act 1881 (hereinafter to be referred as '**the Act**') (Annexure P-1) against the present petitioner on 26.09.2016. He further contends that the petitioner was never served with the

summons/warrants in the said complaint and ultimately without following the process of law, the petitioner was declared as proclaimed person vide order dated 20.09.2021 (Annexure P-2). When the petitioner came to know about the order (Annexure P-2), he approached the respondent No. 2 and made the entire payment to him. Consequently, on 3rd December 2021, the complainant appeared before the trial Court and made a statement that the compromise had been effected between the parties and he did not want to proceed further with the complaint and wanted to withdraw the complaint. Vide order dated 11.12.2021 (Annexure P-4), the complaint under Section 138 of the Act (Annexure P-1) was ordered to be dismissed as withdrawn by the trial Court. Learned counsel further contends that the purpose of declaring the petitioner as proclaimed person was only to procure his presence before the trial Court and now since the main complaint has already been withdrawn, the proceedings under Section 174-A initiated against the petitioner are abuse of the process of the Court and the impugned order dated 20.09.2021 (Annexure P-2) is liable to be quashed by this Court.

3. 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 (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.*

xxx xxx xxx

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.”

4. A perusal of the above judgment would show that in a similar case where the FIR had been registered under Section 174-A IPC in view of the order passed in proceedings under Section 138 of

the Act, while declaring the petitioner therein as a proclaimed offender, a co-ordinate Bench after relying upon various judgments observed that once the main petition under Section 138 of the Act stands withdrawn in view of an amicable settlement between the parties, the continuation of proceedings under Section 174-A 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 a proclaimed person as well as quashing of the FIR under Section 174-A IPC.

5. 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.”

6. In the present case also, the main case has already been withdrawn by the complainant. Consequently, the continuation of the proceedings arising out of impugned order dated 20.09.2021 (Annexure P-2) would be an abuse of process of the Court. Similar observations have been made by this Court in the matter of **“Anil Kumar Versus Jitender Kumar and another, CRM-M- 5878-2022 decided on 06.04.2022”, “Anil Kumar Versus Jitender Kumar and another, CRM-M-5755-2022 decided on 06.04.2022” and “Varinder Kumar @ Virender Kumar Versus State of Haryana and another, CRM-M-42551- 2021 decided on 19.04.2022”.**

7. In view of the above, the present petition is allowed and the impugned order dated 20.09.2021 (Annexure P-2) alongwith all consequential proceedings arising therefrom is hereby ordered to be quashed.

10.12.2024
amit rana

(N.S.SHEKHAWAT)
JUDGE

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