

CRM-14639-2024 in/and
CRM-M-1837-2020 -1 2024:PHHC:049027

118+300 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-14639-2024 in/and
CRM-M-1837-2020
Date of Decision:09.04.2024

Sumitra Devi ...Petitioner

Vs.

State of Haryana and Anr. ...Respondents

Coram : Hon’ble Mr. Justice N.S.Shekhawat

Present: Mr. Abhimanyu Singh, Advocate
for the petitioner.

Mr. Rajinder Kumar Banku, Deputy Advocate General, Haryana.

Mr. Hardeep Singh Poonia, Advocate
for respondent No.2.
(Through V.C)

N.S.Shekhawat J.

CRM-14639-2024

Application is allowed as prayed for, subject to just all
exceptions.

Annexure P-7 is taken on record.

Main case

1. The petitioner has filed the present petition under Section 482 Cr.
P.C with a prayer to quash the impugned order dated 16.10.2019
(Annexure P-4) passed by the Court of Judicial Magistrate Ist Class, Bhiwani in
a criminal complaint No. COMA-1308-2017, instituted on 28.10.2017 titled as
“ Rahul Vs. Smt. Sumitra and Anr.”, whereby the petitioner was declared as a
proclaimed person and directions were issued to the concerned SHO/Police

Station to register the FIR under Section 174-A of IPC and the impugned judgment dated 12.12.2019 passed by the Court of Additional Sessions Judge, Bhiwani (Annexure P-6) and all subsequent proceedings arising therefrom.

2. Learned counsel for the petitioner contends that a complaint under Section 138 of the Negotiable Instruments Act (hereinafter referred to as the “Act”) was filed by respondent No.2 against the petitioner. In the said matter, the petitioner initially appeared and was admitted to bail. However, during the course of trial, the petitioner could not appear on 11.06.2019 and thereafter, without following the due process of law, the petitioner was ordered to be declared as a proclaimed person vide impugned order dated 16.10.2019 (Annexure P-4). Even a direction was issued to concerned SHO to register FIR under Section 174-A of IPC. Feeling aggrieved against the impugned order (Annexure P-4), the petitioner also filed a revision petition before the Court of Additional Sessions Judge, Bhiwani by pleading that the impugned order has been passed by completely ignoring the mandatory provisions of Section 82 of the Cr.P.C. Learned counsel further contends that vide impugned order (Annexure P-6), the revision filed by the petitioner was ordered to be dismissed. Learned counsel further contends that the petitioner thereafter, appeared before the Trial Court and faced the trial. However, vide judgment of conviction dated 15.07.2023 and order of sentence dated 18.07.2023 passed by the Court of Sh. Avinash Yadav, Judicial Magistrate Ist Class, Bhiwani, the petitioner was ordered to be convicted for the offence punishable under Section 138 of the “Act” and was sentenced to undergo SI for a period of one year and to pay a compensation of Rs.1,50,000/- along with 9% interest from the date of issuance

of cheque till the date of judgment. The petitioner filed an appeal before the Court of Sessions Judge, Bhiwani against the judgment and order passed by the Trial Court. During the pendency of the appeal, the petitioner entered into a compromise with respondent No.2 and vide order dated 14.09.2023 and the parties were allowed to compound the offences in view of Section 147 of the “Act” and the petitioner was acquitted of the charge levelled against him. Learned counsel further contends that the impugned order dated 16.10.2019 (Annexure P-4) was passed by the Trial Court only to procure the presence of the petitioner and no purpose will be served since the matter has already stands compromised between the parties, the proceedings arising out of the impugned order (Annexure P-4) is liable to be quashed by this Court.

3. Learned State counsel submits that the petitioner had intentionally evading the process of law and did not appear before the Trial Court. Hence, he does not deserve any leniency from this Hon’ble Court.

4. On the other hand learned counsel appearing on behalf of respondent No.2 submits that the respondent has no objection in case, the impugned order (Annexure P-4) and all the subsequent proceedings emanating therefrom are ordered to be quashed, as the matter stands already compromised between the parties.

5. 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.”

6. 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.

7. 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 regularized 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. In the present case, the matter has already been compromised and the continuation of the proceedings arising from the impugned order dated 16.10.2019 (Annexure P-4) 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” .

9. In view of the above, the present petition is allowed and the impugned order dated 16.10.2019 (Annexure P-4) and the impugned judgment dated 12.12.2019 passed by the Court of Additional Sessions Judge, Bhiwani (Annexure P-6) along with all subsequent proceedings arising therefrom are hereby ordered to be quashed.

09.04.2024
hitesh

(N.S.SHEKHAWAT)
JUDGE

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