

124

2024:PHHC:008908

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-2494-2024
DECIDED ON: 18.01.2024

YATINDER KUMAR @ JEETUPETITIONER

VERSUS

STATE OF HARYANA AND ANOTHERRESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Ajay Redhu, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

This is a petition under Section 482 of Cr.P.C., for quashing the order dated 14.08.2023 (Annexure P-6) passed by CJM/ACJ(SD), Jhajjar, whereby the petitioner has been declared proclaimed offender in COMA/348/2016 dated 25.11.2016 titled as “*Dhan Ram vs. Yatinder Kumar @ Jeetu*”.

It is the assertion made by learned counsel for the petitioner that subsequent to that order, an FIR No.270 dated 16.09.2023 (Annexure P-8) was also registered at Police Station City Jhajjar, District Jhajjar for an offence under Section 174-A of IPC.

Learned counsel for the petitioner has sought quashing of the aforesaid order as well as the FIR on account of the fact that the petitioner was never served, as there is no evidence with regard to the service upon the petitioner in the complaint under Section 138 of Negotiable Instruments Act involving cheque No.757580 dated 12.09.2016 for a sum of Rs.1,00,000/- drawn on Oriental Bank of Commerce.

Learned counsel for the petitioner states that the main complaint stands withdrawn by the complainant, in view of the compromise affected between the parties vide order dated 03.11.2023 (Annexure P-7).

Since the main complaint has been dismissed as withdraw, as is evident from the perusal of aforesaid order passed by Chief Judicial Magistrate, Jhajjar 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.270 dated 16.09.2023 (Annexure P-8) was also registered at Police Station City Jhajjar, District Jhajjar for an offence under Section 174-A of IPC.

Since the Court is convinced on perusal of the pleadings and the submissions made by learned counsel for the petitioner that the petitioner was never served with the summoning orders or any bailable/non-bailable warrants at any stage during the course of trial, the continuation of proceedings in the instant FIR, in pursuance of the order dated 14.08.2023 passed by Chief Judicial Magistrate, Jhajjar would tantamount to nothing else, but an abuse of process of law, which will finally be turned to a futile exercise.

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

A perusal of the relevant extract of the above judgment would show that where the main case was dismissed for want of prosecution, it was observed that the continuation of proceedings under Section 174-A of the IPC shall be an abuse of the process of court.

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.270 dated 16.09.2023 (Annexure P-8) was also

registered at Police Station City Jhajjar, District Jhajjar for an offence under Section 174-A of IPC, as well as the order dated 14.08.2023 (Annexure P-6), with all subsequent proceedings arising therefrom, are hereby quashed qua the petitioner.

18.01.2024

(SANDEEP MOUDGIL)
JUDGE

Meenu

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