

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-4290 of 2024
Date of Decision: January 29, 2024

Rakesh Kumar and another

.....Petitioners

versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE HARPREET SINGH BRAR

Present:- Mr. Saleem Ahmed, Advocate
for the petitioners

Harpreet Singh Brar, J. (Oral)

1. The present petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No. 0047 dated 05.02.2023 under Section 174-A of IPC registered at Police Station Sarai Khawaja, District Faridabad, on the basis of order dated 21.02.2023 (Annexure P-2) passed by learned Judicial Magistrate 1st Class, Faridabad vide which the complaint filed against the petitioners has been dismissed as withdrawn and all subsequent proceedings arising therefrom.
2. Brief facts of the case are that there was a money dispute between M/s. Tirupati Textile and M/s Four House Sourcing Private Limited and petitioners are the Directors of M/s Four House Sourcing Private Limited and they have issued a cheque to M/s Tirupati Textiles but due to delay in the payment, M/s Tirupati Textiles filed a complaint before the Court i.e. complaint No. NACT/6933/2018 titled as "*M/s Tirupati Textiles V/s Four House Sourcing Pvt. Ltd.*" and in that case petitioners were declared proclaimed offender and in pursuance thereto the present FIR No. 0047 dated 05.02.2023 under Section -

174-A IPC was registered at Police Station Sarai Khawaja, District Faridabad (Haryana). When the petitioners came to know about the filing of the present complaint, they arranged money and handed over to M/s Tirupati Textiles and thereafter counsel for the complainant namely Surender Kumar Khatri appeared before the Court on 21.02.2023 and suffered a statement that he want to withdraw the present complaint and learned Judicial Magistrate 1st Class, Faridabad has passed order dated 21.02.2023 that present complaint stands dismissed as withdrawn.

3. Learned counsel for the petitioners *inter alia* contends that the complainant filed a complaint due to delay in payment. Now the parties have settled the dispute and payment has been made to the complainant.

4. Notice of motion to the official respondent only.

5. Ms. Geeta Sharma, DAG, Haryana who is present in Court, accepts notice on behalf of respondent No.1-State.

6. The question which arises for consideration of this Court is whether on account of withdrawal of the complaint under Section 138 of the Act, the proceedings of FIR No. 0047 dated 05.02.2023 under Section 174-A of IPC deserve to be quashed?

7. The stand of learned counsel representing the petitioners is that the complainant has withdrawn the complaint under Section 138 of the Act. In the factual backdrop of this case, undisputedly, once the substantive offence already stands settled between the petitioners and the complainant, the proceedings under Section 174-A of IPC would be of no consequence.

8. Reliance in this regard has been placed upon the various pronouncements on the issue involved in the present case. In CRM-M-43813-

2018, *Baldev Chand Bansal vs. State of Haryana and another*, decided on 29.01.2019, *Vikas Sharma vs. Gurpreet Singh Kohli and another*, 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 identical circumstances, the Coordinate Benches of this Court have 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, the proceedings under Section 174-A of IPC would not sustain either.

9. A Coordinate Bench of this Court in *Vikas Gupta vs. State of Haryana and others*, while quashing the FIR under Section 174-A of the IPC in CRM-M-19636-2018 decided on 01.08.2018 has observed the following:-

“The ultimate aim, objective and goal of a legal system is to reconcile the social conflicts. Law is required only to ensure that people do not have to fight with each other just to protect their right to property, right to life and liberty and other rights secured to them by the legal system. The civil disputes are the conflicts between two parties, having lesser overtones for the social order, social harmony or the society as such. Hence absolute freedom is given to the parties to settle their disputes by compromises, of course, coming with certain legal consequences as well. However, the criminal disputes do not necessarily restrict themselves to only two parties to the dispute in terms of their scope, consequences and effect. The criminal acts tend to cast their effect and consequences even upon the society at large. Therefore, the law prescribes punishment, severe punishments and the extreme punishments, including death penalty for criminal acts.”

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10. This Court, while examining the facts and circumstances of the present case, is *ad idem* with the view taken by the Coordinate Benches of this Court that once the substantive offence has been settled between the petitioners and the complainant, the proceedings of FIR No. 0047 dated 05.02.2023 under Section 174-A of IPC would not sustain either.

11. Accordingly the present petition is allowed. The proceedings of FIR No. 0047 dated 05.02.2023 under Section 174-A of IPC registered at Police Station Sarai Khawaja, District Faridabad (Annexure P-1) and all consequential proceedings arising therefrom are hereby quashed subject to deposit of costs of Rs.10,000/- within fifteen days with the District Legal Services Authority, Faridabad, for wasting precious time of the Court.

(HARPREET SINGH BRAR)
JUDGE

January 29, 2024

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No