

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM M-4225 of 2024
Date of Decision: 16.04.2024

Sulekha Rani ...Petitioner
Vs.
State of Punjab and another ...Respondents

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

Present : Mr. Rhythem Bajaj, Advocate, for the petitioner.
Mr. M.S. Bajwa, DAG, Punjab.
Mr. Vishal Sharda, Advocate, for respondent No. 2.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 482 Cr.P.C., with a prayer to quash the order dated 26.10.2021 passed by the Judicial Magistrate 1st Class, Abohar (Annexure P-2), in complaint bearing No.1000 dated 21.09.2020 titled as **“Akashdeep Vs. Sulekha Rani”** and the FIR No. 157 dated 20.06.2022 under Section 174-A IPC registered at Police Station City-I, Abohar District Fazilka and all subsequent proceedings arising therefrom.
2. Learned counsel for the petitioner submits that in the present case a complaint under Section 138 of the Negotiable Instruments Act 1881 (hereinafter to be referred as '**the Act**') was filed

by respondent No. 2/complainant against him on account of dishonour of a cheque bearing No. 098983 dated 26.07.2020 for a sum of Rs. 2,40,000/-, which was issued by the petitioner in favour of the complainant. Learned counsel further contends that after filing of the criminal complaint (Annexure P-1), the petitioner was ordered to be summoned through bailable warrants and, thereafter, non-bailable warrants were also issued against him. However, the petitioner was never served in the present case. Ultimately, vide order dated 26.10.2021 (Annexure P-2), the petitioner was declared as proclaimed person by the Court of Judicial Magistrate 1st Class Abohar. In compliance of the order (Annexure P-2) passed by the trial Court, the SHO Police Station City-I Abohar had ordered registration of FIR, i.e., FIR No. 157 dated 20.06.2022 under Section 174-A (Annexure P-3) against the petitioner. Learned counsel further contends that after the registration of the case, the petitioner came to know about the pendency of the FIR against him and he had immediately compromised the matter with respondent No. 2. Later on, in compliance of the settlement/agreement between the parties, the main complaint was withdrawn by respondent No. 2/complainant vide order dated 29.03.2023 (Annexure P-4). Learned counsel for petitioner further contends that since the main matter, i.e., complaint under Section 138 of the Act has been compromised between the parties and the complaint stands withdrawn by respondent No.2/complainant, the continuation of the proceedings under Section

174-A of IPC would be an abuse of process of the law. He further contends that even the petitioner has been declared as proclaimed person, without following the process of law.

3. On the other hand, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner on the ground that the petitioner had intentionally evaded the process of law and was not appearing before the trial Court for a very long period. Consequently, after following the process of law, the petitioner was rightly declared as proclaimed person and as a necessary consequence, FIR No. 157 dated 20.06.2022 under Section 174-A IPC (Annexure P-3) was ordered to be registered against him at Police Station City-I, Abohar District Fazilka. He prays that in view of the fact that the petitioner had evaded the process of law for such a long period, the present petition merits dismissal by this Court.

4. Learned counsel appearing on behalf of respondent No. 2 submits that he has no objection in case the present petition is allowed by this Court as the main case has already been compromised between the parties and the respondent No. 2 has already withdrawn the complaint from the trial Court.

5. I have heard learned counsel for the parties and perused the record.

6. 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.*

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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.”

7. 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.

8. 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.”

9. In the present case also, the matter has already been compromised between the parties. Consequently, the continuation of the proceedings in pursuance of the impugned order dated 26.10.2021 (Annexure P-2) would be an abuse of the process of the law. 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”.**

10. In view of the above, the present petition is allowed and impugned order dated 26.10.2021 (Annexure P-2) passed by the

Judicial Magistrate 1st Class, Abohar and FIR No. 157 dated 20.06.2022 under Section 174-A IPC registered at Police Station City-I, Abohar District Fazilka (Annexure P-3) alongwith all subsequent proceedings arising therefrom are hereby ordered to be quashed.

16.04.2024

(N.S.SHEKHAWAT)

amit rana

JUDGE

Whether reasoned/speaking

:

Yes/No

Whether reportable

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Yes/No