



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM M-5723 of 2021
Date of Decision: 13.09.2024

Anil Kumar ...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 Cr.P.C. with a prayer to quash the impugned order dated 26.03.2019 (Annexure P-2) passed by the Court of Judicial Magistrate 1st Class, Safidon, in a complaint case bearing No. 2792 of 21.09.2015/18.11.2015 titled as “**M/s Arunodya Feeds Pvt. Ltd. Vs. Anil Kumar**”, under Section 138 of the Negotiable Instruments Act 1881 (hereinafter to be referred as '**the Act**'), whereby, the petitioner has been declared as a proclaimed person and further directions have been issued to register the FIR under Section 174-A of IPC.
2. Learned counsel for the petitioner contends that the respondent No. 2 had filed a complaint under Section 138 of the Act against the petitioner. In the said complaint, summons and warrants

were issued to procure the presence of the petitioner, however, summons/warrants were never served on the petitioner. Ultimately, vide the impugned order dated 26.03.2019 (Annexure P-2), the petitioner was declared as a proclaimed person in the present case. After that, the petitioner came to know about the pendency of the present complaint and he approached the respondent No.2/complainant. Since, there were certain business transactions between the petitioner and respondent No. 2/complainant, the same were settled and a compromise had taken place between the parties. Consequently, vide order 12.12.2020, the main complaint under Section 138 of the Act was ordered to be dismissed as withdrawn on statement made by respondent No. 2 by the Presiding Officer, National Lok Adalat-cum-Judicial Magistrate 1st Class, Safidon.

3. Learned counsel for the petitioner further contends that in the present case, the main complaint under Section 138 of the Act has already been withdrawn by respondent No. 2, so continuation of proceedings arising out of order dated 26.03.2019 (Annexure P-2) against the petitioner would be misuse of the process of the law. He further contends that the very purpose of declaring the petitioner a proclaimed person was to procure the presence of the petitioner and since the main matter already stands compromised between the parties, the proceedings arising out of the impugned order (Annexure P-2) are liable to be quashed by this Court.

4. 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.

xxx xxx xxx

*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.”

5. 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.

6. 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.”

7. In the present case also, the main case has already been withdrawn by the complainant. Consequently, the continuation of the proceedings arising out of order dated 26.03.2019 (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”.**

8. In view of the above discussion, the petition is allowed and the order dated 26.03.2019 (Annexure P-2) alongwith all consequential proceedings arising therefrom are hereby ordered to be quashed.

13.09.2024
amit rana

(N.S.SHEKHAWAT)
JUDGE

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