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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-8570-2024

DECIDED ON: 09.09.2024

RAJ KUMAR

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Lupil Gupta , Advocate
for the petitioner.

Mr. Baljinder Singh Virk, Sr. DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)Relief Sought

1. The present case has been preferred under Section 482 CrPC seeking quashing FIR No. 83 dated 20.01.2023 (Annexure P-1) under Section 174-A of the Indian Penal Code, 1860 (for short 'IPC'), registered at police station Civil Lines, Sirsa, district, Sirsa.

Facts

2. A complaint under Section 138 of Negotiable Instruments Act, 1881 was filed against the petitioner wherein, vide order dated 8.02.2024 (Annexure P-3) passed by Chief Judicial Magistrate, Sirsa, the bail of the petitioner stood cancelled and his bail bonds and surety bonds were forfeited to the State.

Submissions

3. It has been contended by learned counsel for the petitioner that the petitioner could not appear before the trial Court on 12.09.2023, as he



was under this impression that the case was fixed for supplying the copy of challan to him. His non-appearance before the trial Court was neither intentional nor wilful but due to the afore-said reason only. Moreover, the petitioner has already paid the cheque amount in question and the main complaint i.e. NACT-196-2021 titled as **Suresh Kumar vs. Raj Kumar**, has been dismissed as withdrawn by the trial Court vide its order dated 03.03.2023 (Annexure P-2). Thus, no useful purpose would be served by continuing the proceedings initiated under Section 174-A IPC.

Analysis

4. This Court having perused the file and also having heard the arguments for both the parties as averred by their Ld. Counsels, this court while dealing with the same question of law finds it appropriate to refer to the judicial precedent of the case **CRM-M-43813-2018** titled as "**Baldev Chand Bansal v. 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.

*Learned counsel for the petitioner has relied upon the decisions rendered by this Court in "**Vikas Sharma v. Gurpreet Singh Kohli and another 2017, (3) L.A.R.584, Microqual Techno Limited and others v. State of Haryana and another, 2015 (32) RCR (Criminal) 790 and "Rajneesh Khanna v. 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 NI 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. Similarly, this Court in case titled as "**Ashok Madan v. 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.

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. 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 IPC shall be an abuse of the process of court. A similar view has been expressed by this Court in **"Anil Kumar v. Jitender Kumar and another, CRM-M-5878-2022 decided on 06.04.2022"**, **"Anil Kumar v. Jitender Kumar and another, CRM-M-5755-2022 decided on 06.04.2022"** and **"Varinder Kumar @ Virender Kumar v. State of Haryana and another, CRM-M-42551- 2021 decided on 19.04.2022"**.

8. Also, this court, in case as titled **"Durga Sahay Sharma Vs State of Haryana and Another"** in CRM-M-5992-2022(O&M) as decided on 03.04.2024 held as under:

"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 petitioner and the complainant, the proceedings of FIR No. 1793, dated 12.09.2019 (Annexure P-2), under Section 174-A IPC would not sustain either."

9. It is pertinent to note that the petitioner has already paid the cheque amount along with the compensation and the aforementioned complaint stands dismissed as withdrawn vide order dated 3.03.2023 (Annexure P-2) passed by Judicial Magistrate Ist Class, Sirsa.

Decision

10. In view of the above, the present petition is allowed and the FIR No. 83 dated 20.01.2023 (Annexure P-1) registered at police station Civil Lines, Sirsa, District, Sirsa is, hereby, quashed qua the petitioner along-with all subsequent proceedings arising therefrom.

11. In the afore-said terms the present petition is allowed.

09.09.2024

Sham(P)

(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>