

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM M-12128 of 2024
Date of Decision: 07.03.2024

M/s Mindrays Numinous
Corporate Solutions (P) Ltd.
and another

...Petitioners

Vs.

State of Haryana and another

...Respondents

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

Present : Mr. Naveen Bawa, Advocate, for the petitioners.
Mr. Rajinder Kumar Banku, DAG, Haryana.
Mr. Vishnu Dutt, 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 08.08.2018 passed by the Judicial Magistrate 1st Class, Panipat (Annexure P-5), in complaint bearing No. NACT/1976/2017 titled as “**Devender Tyagi Vs. Mindrays Numinous Corporate Solutions (P) Ltd. and another**” under Section 138 of the Negotiable Instruments Act 1881 (hereinafter to be referred as '**the Act**'), whereby, the petitioner was declared to be a “proclaimed person” and also to quash the FIR No. 1203 dated 31.08.2018 under Section 174-A of IPC registered at

Police Station Panipat City, District Panipat (Annexure P-6) and all subsequent proceedings arising therefrom.

2. Learned counsel for the petitioner contends that Devender Tyagi, respondent No. 2 had filed a complaint under Section 138 of the Act, i.e., NACT/1976/2017, titled as **“Devender Tyagi Vs. Mindrays Numinous Corporate Solutions (P) Ltd. and another”**, (Annexure P-6) in the Court of the Judicial Magistrate 1st Class, Panipat. Vide order dated 25.07.2017 (Annexure P-2), the petitioner was ordered to be summoned under Section 138 of the Act. Learned counsel for the petitioner contends that the petitioner was never aware of the pendency of the proceedings before the Court of Judicial Magistrate 1st Class, Panipat. In fact, during the course of proceedings, various summons/warrants were ordered to be issued against the petitioner but the petitioner was never served during the said process. Ultimately, vide order dated 08.08.2018 (Annexure P-5), the petitioner was declared as a ‘proclaimed person’. After passing of the impugned order dated 08.08.2018 (Annexure P-5), a direction was also issued to the concerned SHO for registration of the FIR and consequently, FIR No. 1203 dated 31.08.2018 under Section 174-A of IPC, Police Station Panipat City, District Panipat (Annexure P-6) was ordered to be registered against the present petitioner. Learned counsel contends that after the registration of the FIR, the petitioner came to know about the pendency of the proceedings against him

before the Court of Judicial Magistrate 1st Class, Panipat and he had entered into a compromise dated 13.12.2018 (Annexure P-3) with respondent No. 2. In compliance of the compromise, the respondent No. 2 appeared before the Judicial Magistrate 1st Class, Panipat and the complaint dismissed as withdrawn on 21.02.2024. Learned counsel further contends that the very purpose of the impugned FIR was to procure the presence of the petitioner and since the main matter has already been compromised between the parties, the proceedings arising out of the impugned order dated 08.08.2018 (Annexure P-5) and the FIR No. 1203 dated 31.08.2018 under Section 174-A of IPC, Police Station Panipat City, District Panipat (Annexure P-6) are liable to be quashed.

3. 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.”

4. 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.

5. 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.”

6. In the present case also, the main case has already been withdrawn by the complainant. Consequently, the continuation of the proceedings arising from the impugned order dated 08.08.2018 (Annexure P-5) and FIR No. 1203 dated 31.08.2018 under Section 174-A of IPC registered at Police Station Panipat City, District Panipat (Annexure P-6) 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”.

7. In view of the above, the present petition is allowed and impugned order dated 08.08.2018 (Annexure P-5) and FIR No. 1203 dated 31.08.2018 under Section 174-A of IPC registered at Police Station Panipat City, District Panipat (Annexure P-6) alongwith all subsequent proceedings arising therefrom are hereby ordered to be quashed.

07.03.2024

amit rana

(N.S.SHEKHAWAT)

JUDGE

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