

142 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-13626-2024
Date of Decision: 18.03.2024

Sampat Ram

State of Haryana

vs.

...Petitioner

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Ms. Shweta Bawa, Advocate
for the petitioner.

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 FIR No.584 dated 07.08.2023 (Annexure P-1), under Section 174-A of IPC, registered at Police Station Urban Estate Hisar, District Hisar and all consequential proceedings arising therefrom.

2. Learned counsel for the petitioner contends that the HDFC Bank had filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter to be referred as 'the Act') against the petitioner on 10.02.2021 in the Court of Judicial Magistrate 1st Class, Hisar on account of dishonour of cheque amounting to Rs.39,003/- dated 09.12.2020 (Annexure P-2). Learned counsel further contends that the petitioner was ordered to be summoned in the said complaint and thereafter, summons/warrants were ordered to be issued against the petitioner. She further contends that ultimately without following the due process of law, the petitioner was ordered to be declared as proclaimed person, vide order dated 17.12.2023 (Annexure P-3). She further contends that

thereafter, on the same day, the Judicial Magistrate 1st Class, Hisar directed the concerned SHO to register the FIR No.584 dated 07.08.2023 under Section 174-A IPC at Police Station Urban Estate Hisar, District Hisar, against the present petitioner. When the petitioner came to know about the pendency of the complaint and the summoning order against him, the petitioner immediately compromised the matter with HDFC Bank and vide order dated 25.09.2023 (Annexure P-4), the complaint was withdrawn by HDFC Bank. Learned counsel further contends that since the main case has already been withdrawn by the HDFC Bank, no purpose would be served by keeping the proceedings in continuation of FIR No. 584 dated 07.08.2023 alive. She further contends that in fact, the summons/warrants were issued against the present petitioner to ensure the presence of the petitioner in the complaint case and the continuation of the proceedings emanating therefrom would be an abuse of process of the 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.

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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.”

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 from the impugned FIR No.584 dated 07.08.2023 (Annexure P-1), under Section 174-A of IPC, registered at Police Station Urban Estate Hisar, District Hisar 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, the present petition is allowed and the FIR No.584 dated 07.08.2023 (Annexure P-1), under Section 174-A of IPC, registered at Police Station Urban Estate Hisar, District Hisar alongwith all subsequent proceedings arising therefrom are hereby ordered to be quashed.

18.03.2024.
hemlata

(N.S.SHEKHAWAT)
JUDGE

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