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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-14386-2024
Date of Decision:16.04.2024

Paramjeet Kaur ...Petitioner
Vs.
State of Haryana and another ...Respondents

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

Present: Mr. Deepak K. Bartia, Advocate
for the petitioner.

Mr. Karan Garg, AAG, Haryana.

Mr. Gaurav Goel, Advocate and
Mr. Teginder Singh, Advocate
for respondent No.2.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 482 of the Code of Criminal Procedure with a prayer to quash the impugned order dated 06.07.2022 (Annexure P-3) passed by learned Judicial Magistrate, First Class, Jagadhri and the FIR No.457 dated 11.11.2023 under Section 174-A of IPC, 1860 registered at Police Station Sector 17 Huda, Jagadhri, District Yamuna Nagar (Annexure P-4) alongwith all consequential proceedings arising therefrom.
2. Learned counsel for the petitioner contends that respondent No.2 had filed a complaint Anneuxre P-1 against the present petitioner under Section 138 of the Negotiable Instruments Act 1881 (hereinafter to be referred as '**the Act**'). After the presentation of the complaint, pre-summoning evidence was led

by respondent No.2 and the petitioner was ordered to be summoned by the trial Court. However, the petitioner was never served in the present case. Even warrants were issued against the present petitioner, but the same were also not served on the present petitioner. Ultimately, vide the order dated 06.07.2022, the Court of Judicial Magistrate First Class, Jagadhri declared the petitioner as a proclaimed person and directions were issued to the concerned Station House Officer to register an FIR against the present petitioner under Section 174-A of IPC in compliance of the aforesaid order dated 06.07.2022 (Annexure P-3) and the FIR No.457 dated 11.11.2023 under Section 174-A of IPC, 1860 at Police Station Sector 17 Huda, Jagadhri, District Yamuna Nagar (Annexure P-4) was ordered to be registered against the present petitioner. Learned counsel for the petitioner further contends that in the present case, without following the necessary procedure under Section 82 of the Code of Criminal Procedure and without effecting service upon the present petitioner, summons/warrants were issued on the present petitioner and he was wrongly ordered to be declared as proclaimed person. He further contends that on coming to know about the registration of the FIR, the petitioner approached the respondent No.2 and settled the dispute amicably. After the compromise, respondent No.2 has withdrawn the complaint from the trial Court on 25.01.2024. Learned counsel for the petitioner also referred to the order dated 25.01.2024 (Anneuxre P-7) passed by the Judicial Magistrate First Class, Jagadhri, which shows that the main complaint was withdrawn by respondent No.2/complainant. He next contends that since the main complaint has already been withdrawn by respondent No.2/complainant from the trial Court, no purpose will be served with the continuation of the proceedings emanating from FIR No.457 dated

11.11.2023 under Section 174-A of IPC, 1860 registered at Police Station Sector 17 Huda, Jagadhri, District Yamuna Nagar (Annexure P-4) and the same may be ordered to be quashed.

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 present petitioner had intentionally not appeared before the trial Court and has been rightly declared as a proclaimed person, whereas, the learned counsel appearing for respondent No.2 submits that the respondent No.2 has already withdrawn the complaint registered under Section 138 of the Act from the Court of Judicial Magistrate 1st Class, Jagadhari on 25.01.2024 and he has no objection in case the FIR No.457 dated 11.11.2023 under Section 174-A of IPC, 1860 registered at Police Station Sector 17 Huda, Jagadhri, District Yamuna Nagar (Annexure P-4) and all subsequent proceedings are ordered 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.

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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 regularized 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 order dated 06.07.2022 (Annexure P-3) and the FIR No.457 dated 11.11.2023 under Section 174-A of IPC, 1860 registered at Police Station Sector 17 Huda, Jagadhri, District Yamuna Nagar (Annexure P-4) 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 impugned order dated 06.07.2022 (Annexure P-3) and the FIR No.457 dated 11.11.2023 under Section 174-A of IPC, 1860 registered at Police Station Sector 17 Huda, Jagadhri, District Yamuna Nagar (Annexure P-4) alongwith all subsequent proceedings arising therefrom are hereby ordered to be quashed.

16.04.2024
M.Sikka

(N.S.SHEKHAWAT)
JUDGE

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