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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15542-2023
Date of Decision:21.03.2024

Rohit Jakhar ...Petitioner
Vs.
State of Haryana and anothers ...Respondent

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

Present: Mr. Simranjeet Singh, Advocate for
Ms. Simranjeet Kaur, Advocate
for the petitioner.

Mr. Rajinder Kumar Banku, DAG, Haryana.

Mr. Amardeep Singh Mann, 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 FIR No.1131 dated 02.12.2022 registered under Section 174-A of IPC, at Police Station HTM Hisar, District Hisar (Anneuxre P-1) and all subsequent proceedings arising therefrom.
2. Learned counsel for the petitioner contends that a complaint under Section 138 of the Negotiable Instruments Act 1881 (hereinafter to be referred as '**the Act**') filed by respondent No.2/complainant against the present petitioner. In the said complaint, the present petitioner was ordered to be summoned to face the trial under Section 138 of the Act. Even the trial Court had issued summons/warrants against the present petitioner, however, the said summons/warrants were never served on the present petitioner. He further

submits that in fact the summons/warrants were sent at a different address, i.e., House No. 38, Urban Estate-II, Dabra Chowk, Hisar, whereas the petitioner was residing at House No.30-A, Rishi Nagar, Urban Estate-II, Dabra Chowk, Sector 12, Hisar. He next contends that after the registration of the FIR, the petitioner came to know about the pendency of the proceedings registered under Section 138 of the Act against him and he immediately entered into a compromise with the respondent No.2. He settled all his disputes with respondent No.2 vide (Anneuxre P-2), where respondent No.2 had withdrawn the complaint registered under Section 138 of the Act. Learned counsel for the petitioner further contends that the present petitioner was declared to be a proclaimed person only to procure his presence before the trial Court, whereas, the matter has been amicably resolved between the parties and the complaint filed under Section 138 of the Act has already been withdrawn by the respondent No.2. No purpose would be served by keeping the proceedings in pursuance of the FIR No.1131 dated 02.12.2022 registered under Section 174-A of IPC, at Police Station HTM Hisar, District Hisar (Anneuxre P-1) alive.

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, Amritsar on 02.01.2023 and he has no objection in case the FIR No.1131 dated 02.12.2022 registered under Section

174-A of IPC, at Police Station HTM Hisar, District Hisar (Anneuxre P-1) 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 with the FIR No.1131 dated 02.12.2022 registered under Section 174-A of IPC, at Police Station HTM Hisar, District Hisar (Anneuxre P-1) 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.1131 dated 02.12.2022 registered under Section 174-A of IPC, at Police Station HTM Hisar, District Hisar (Anneuxre P-1) alongwith all subsequent proceedings arising therefrom are hereby ordered to be quashed.

21.03.2024
M.Sikka

(N.S.SHEKHAWAT)
JUDGE

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