

CRM-M-17248-2024
CRM-M-17277-2024

2024:PHHC:047651
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1

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision: 08.04.2024

CRM-M-17248-2024
SUKHDARSHAN KUMARPetitioner

Versus

STATE OF HARYANA AND ANOTHER ...Respondents

CRM-M-17277-2024
SUKHDARSHAN KUMARPetitioner

Versus

STATE OF HARYANA AND ANOTHER ...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Bikramjeet S. Jatana, Advocate
for the petitioner (in both matters).

PANKAJ JAIN, J. (ORAL)

By way of CRM-M-17248-2024, the petitioner is seeking quashing of order dated 27th of March, 2023 passed by JMIC, Hisar whereby he has been declared as Proclaimed Offender in complaint case bearing NACT-405 of 2020 dated 30th of January, 2020, under Section 138 of the Negotiable Instruments Act, 1881. In CRM-M-17277-2024 the prayer is for quashing of FIR No.206 dated 14th of April, 2023 registered for the offence punishable under Section 174-A of the IPC, at Police Station Urban Estate, District Hisar and all proceedings subsequent thereto.

2. Counsel for the petitioner *inter alia* submits that at the heart of the controversy is a commercial transaction between the parties and the

dispute arose during the time the country was under lockdown owing to Covid-19 Pandemic. Now the principal proceedings under Sections 138 of the N.I. Act stands settled and the complaint stands withdrawn.

3. Issue notice of motion.

4. Mr. R.K. Ambavta, AAG, Haryana accepts notice on behalf of respondent No.1-State of Haryana.

5. Mr. Arpinder S. Sidhu, Advocate appears and files his power of attorney on behalf of respondents No.2/complainant (in both cases) and admits the fact of their being a compromise.

6. The issue in the present petitions will be: *‘where the proceedings stand settled/withdrawn, can the proceedings arising out of order declaring the accused as a Proclaimed Person be allowed to continue?’*

7. The same is no more *res integra* and has been answered by a Co-ordinate Bench of this Court in **CRM-M-43813-2018** titled as “**Baldev Chand Bansal Vs. State of Haryana and another**” vide order dated 29th of Janaury, 2019, which 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."

8. Same is the view of another Co-ordinate Bench in the “**Ashok Madaan vs. State of Haryana and another**” reported as 2020 (4) RCR (Criminal) 87, wherein it has been held that:

“No doubt, the learned counsel for the respondent has vehemently argued that the offence under Section 174-A 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.”

9. In view of above, both the petitions are allowed.
10. Order dated 27th of March, 2023 declaring the petitioner as Proclaimed Offender is hereby ordered to be set aside and as a consequence thereof FIR No.206 dated 14th of April, 2023 registered for the offence punishable under Section 174-A of the IPC, at Police Station Urban Estate, District Hisar and all proceedings subsequent thereto, are hereby quashed *qua* the present petitioner.
11. A copy of this order be kept on the file of other connected case.

April 08, 2024	(Pankaj Jain)
Dpr	Judge
Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No