

296 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18148-2023
Date of Decision:29.04.2024

Sukender @ Parvesh ...Petitioner

Vs.

State of Haryana and Anr. ...Respondents

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

Present: Mr. Saleem Ahmed, Advocate
for the petitioner.

Mr. Ram Kumar Singla, DAG, Haryana.

Mr. Aazam Khan, Advocate
for respondent No.2.

1. The petitioner has filed the present petition under Section 482 Cr. P.C with a prayer to quash FIR No. 52 dated 05.03.2023 under Section 174-A of IPC, registered at Police Station Tigaon, District Faridabad,Haryana (Annexure P-1) and all subsequent proceedings arising therefrom.

2. Learned counsel for the petitioner contends that a complaint (Annexure P-2) bearing case No.NACT-2090-2018, titled as “Ram Kumar Vs. Sukender @ Parvesh”, was filed by respondent No.2 against the present petitioner under Section 138 of the Negotiable Instruments Act (hereinafter referred to as the “Act”). In the said complaint, the petitioner was ordered to be summoned as an additional accused, after issuance of summons. Learned counsel further contends that in fact, the petitioner was not aware of the pendency of the summoning order and the summons were never served on him.

Consequently, the warrants were also ordered to be issued against the petitioner,

but the said warrants also were never served upon the petitioner. Ultimately, vide order dated 28.02.2023, the petitioner was declared as a proclaimed person by the Court of Judicial Magistrate Ist Class, Faridabad. Even the Trial Court ordered for registration of the FIR against the petitioner and ultimately, FIR No. 52 dated 05.03.2023 under Section 174-A of IPC, Police Station Tigaon, District Faridabad, Haryana (Annexure P-1) was ordered to be registered against the present petitioner. After the registration of the FIR on 05.03.2023, the police visited the house of the petitioner and the petitioner came to know about the pendency of the complaint under Section 138 of the “Act” as well as about the registration of the FIR against him. Consequently, the petitioner arranged the money and handed over the same to respondent/complainant. Thereafter, respondent No.2 moved an application for withdrawal of the complaint and also submitted a statement before the Trial Court. Consequently, vide order dated 13.03.2023, the complaint was withdrawn from the Court of Judicial Magistrate Ist Class. Learned counsel for the petitioner further contends that since the matter has already been settled and the complaint under Section 138 of the “Act” has already been withdrawn by respondent No.2, continuation of the proceedings arising out of abovementioned FIR would be an abuse of the process of the Court. Learned counsel further contends that very purpose of the impugned FIR was to procure the presence of the petitioner and since the main matter already stands compromised between the parties, the proceedings arising out of FIR No. 52 dated 05.03.2023 under Section 174-A of IPC, registered at Police Station Tigaon, District Faridabad, Haryana are liable to be quashed by this Court.

3. On the other hand, learned State counsel submits that the petitioner

had not intentionally appeared before the Trial Court and has been rightly declared to be a proclaimed person, whereas learned counsel appearing on behalf of respondent No.2/complainant submits that the main case has already been compromised, consequently, respondent No.2 has no objection, in case the proceedings arising out of FIR No. 52 dated 05.03.2023 under Section 174-A of IPC, Police Station Tigaon, District Faridabad, Haryana 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 out of FIR No. 52 dated 05.03.2023 under Section 174-A of IPC, Police Station Tigaon, District Faridabad,Haryana (Annexure 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 FIR No. 52 dated 05.03.2023 under Section 174-A of IPC, registered at Police Station Tigaon, District Faridabad,Haryana (Annexure P-1) and all subsequent proceedings arising therefrom are hereby ordered to be quashed.

29.04.2024

hitesh

(N.S.SHEKHAWAT)

JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

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Yes/No