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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

115

CRM-M-51518-2018
DECIDED ON: 07.05.2024

Pritpal Singh**PETITIONER****VERSUS****State of Punjab and Anr.****RESPONDENT****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Amandeep Chhabra, Advocate for the petitioner.

Mr. Rajiv Verma, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. This is a petition under Section 482 of Cr.P.C., seeking quashing of Order dated 03.09.2016 passed by JMIC Bathina whereby petitioner has been declared proclaimed person in criminal Complaint No. COMA-1548/2015 dated 10.09.2015 filed under Section 138 of NI Act along with all consequential proceedings arising therefrom.

2. Learned counsel for the petitioner submits that in the complaint summons were issued against the petitioner but the same was not properly served and service was effected through his mother but the Trial Court issued non-bailable warrants against the petitioner on 02.02.2016. Thereafter on 14.07.2016, without waiting for the service of non-bailable warrants, the proclamation proceedings were initiated against the petitioner and vide order dated 03.09.2016, the petitioner was declared as proclaimed offender.

3. He states that the main complaint under Section 138 of Negotiable Instruments Act stands withdrawn by the complainant on 19.08.2017 and the petitioner has been acquitted by the JMIC, Bathinda,



4. Heard, learned counsel for the parties.

5. In view of the submissions made by learned counsel for the petitioner that the main complaint stands withdrawn by the complainant on 19.08.2017, therefore, continuation of proceedings under Section 174-A of IPC would be abuse of process of law. Also, this principle has been laid down in several dictums of this Court and reliance can be placed upon the orders dated 20.07.2022 and 24.08.2022 respectively, passed by a coordinate Bench of this Court in CRM-M-46062-2017, titled as ***“Jatin Dhawan and another versus State of Haryana and another”*** and CRM-M-12534-2022, titled as ***“Krishan Kumar versus State of Haryana and another”***, respectively wherein it has been held that once the main case is dismissed as withdrawn, the continuation of proceedings under Section 174-A IPC shall be an abuse of process of law.

6. Further reliance can be placed upon the orders of this Court dated 12.12.2022 and 13.12.2022 passed in CRM-M-55634-2022 titled as ***“Jinder Singh Vs. State of Punjab and another”*** and CRM-M-45051-2022 titled as ***“Hari Singh Meena Vs. State of Haryana”***, respectively in this regard.

7. 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

174-A I.P.C. Shall be abuse of the process of court.

Accordingly, the petition is allowed. FIR No.446 dated 21.08.2017, registered under Section 174-A I.P.C. At Police Station Kotwali, District Faridabad, as well as consequential proceedings shall stand quashed.”

8. A perusal of the relevant extract of the above judgment would show that where the main case was dismissed for want of prosecution, it was observed that the continuation of proceedings under Section 174-A of the IPC shall be an abuse of the process of court.

9. Since the main complaint has been dismissed as withdrawn, as is evident from the perusal of aforesaid order passed by Judicial Magistrate 1st Class, Bathina and the offence between the petitioner and complainant is personal in nature not against the society at large, who have resolved their dispute, no fruitful purpose would be served by continuing the proceedings in the instant case.

10. Keeping in view the above-said facts and circumstances, the present petition is allowed and Order dated 03.09.2016 passed by JMJC Bathina whereby petitioner has been declared proclaimed person in criminal Complaint No. COMA-1548/2015 dated 10.09.2015 filed under Section 138 of NI Act along with all consequential proceedings arising therefrom, are hereby quashed qua the petitioner.

(SANDEEP MOUDGIL)
JUDGE

07.05.2024
anuradha

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