



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-26870-2024
DECIDED ON: 28.05.2024

RAVI SHARMAPETITIONER

VERSUS

STATE OF HARYANARESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Brijender Kaushik, Advocate for the petitioner.

Mr. B.S.Virk, Sr. DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. This is a petition under Section 482 of Cr.P.C., for quashing the order dated 31.10.2017 (Annexure P-9) passed by Judicial Magistrate 1st class, Ambala where the petitioner has been declared as proclaimed person in complaint no. COMA-1301 of 05.08.2016 titled as “ICICI Bank Ltd. Vs Ravi Sharma” and its consequential FIR No. 297 dated 17.02.2020 under section 174-A IPC, registered at Police Station Baldev Nagar, Ambala City, Haryana(Annexure P-10) along with all subsequent orders and proceedings arising therefrom.

2. Learned counsel for the petitioner submits that the present FIR came to be registered in pursuance of the criminal complaint bearing COMA-1301 of 05.08.2016 under some misunderstanding filed against the petitioner by ICICI Bank Limited, Branch office at Aggarsain Chowkn, Near Rajan Sarees, Ambala City before the Judicial Magistrate 1st Class, Ambala

under section 138 of Negotiable Instrument Act regarding dishonor of cheque bearing no. 128359 dated 03.05.2016 for a sum of Rs.33333/- and further he failed to joined the proceedings and was declared Proclaimed person vide order dated 31.10.2017(Annexure P-9).

3. He further states that the main complaint under section 138 of Negotiable Instruments Act has already been withdrawn vide statement and order dated 07.05.2024 (Annexure P-12 and P-13 respectively).

4. In addition he submits that non appearance before the court in ***complaint No. 1301 of 2016*** titled as ***“ICICI Bank Limited Vs Ravi Kumar”*** was non intentional and rather *bona fide* as the petitioner was never served or made aware about the proceedings.

5. Heard.

6. In view of the submissions made by learned counsel for the petitioner that the main complaint stands withdrawn by the complainant on 07.05.2024 therefore, continuation of proceedings under Section 174-A of IPC would be abuse of process of law.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.

7. 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.

8. 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.”

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 A perusal of the relevant extract of the above judgment would show that where the main case was dismissed as withdrawn, it was observed that the continuation of proceedings under Section 174-A of the IPC shall be an abuse of the process of court.

10. Since the main complaint has been dismissed as withdrawn, as is evident from the perusal of aforesaid order dated 07.05.2024 passed by Judicial Magistrate 1st Class, Ambala (Annexure P-13) and the offense between the petitioner and complainant is personal in nature and not against

the society at large, who now have resolved their dispute, no fruitful purpose would be served by continuing the proceedings in the instant case.

11. Keeping in view the above-said facts and circumstances, the present petition is allowed wherein the order dated 31.10.2017 (Annexure P-9) declaring the petitioner Proclaimed person along with FIR No. 297 dated 17.02.2020 registered at Police Station Baldev Nagar, Ambala city under Section 174-A of IPC (Annexure P-10) and all consequential proceedings arising therefrom, are hereby quashed qua the petitioner.

28.05.2024

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>