



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

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**CRM-M No.27538 of 2024
Date of decision : 28.5.2024**

Mukesh VijPetitioner
Versus
State of Haryana and anotherRespondents

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sourabh Sheoran, Advocate, for the petitioner
Mr. B.S. Virk, Senior DAG, Haryana
Mr. Rajat Verma, Advocate, for respondent no.2

SANDEEP MOUDGIL, J (ORAL)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No.190, dated 21.3.2023, under Sections 174-A of the Indian Penal Code, 1860, registered at Police Station City Narnaul, District Mahendergarh (Annexure P-1), with all the consequential proceedings arising therefrom, and the order dated 16.11.2022 passed by the ACJM, Narnaul, vide which the petitioner was declared proclaimed person in complaint under Section 138 of the Negotiable Instruments Act, 1881 bearing No.NACT-9-2021, CNR No.HRNR030000142021, instituted on 5.1.2021, and subsequently aforesaid FIR was registered against the petitioner.

2. During the pendency of the complaint, the parties have compromised the matter and the petitioner had paid the entire cheque amount to respondent no.2 as per the settlement. It was agreed by the parties that after payment of the cheque amount, respondent no.2 will



withdraw his complaint under section 138 of the N.I.Act. Thereafter, under the impression that he had paid the cheque amount and respondent no.2 would have withdrawn his case, the petitioner did not put in appearance before the trial Court. On his non-appearance, the trial Court vide order dated 16.11.2022, declared the petitioner a proclaimed person. On 2.5.2023, the petitioner was produced by the police in the Court, where the complainant suffered a statement to the effect that he has received the cheque amount and does not want to pursue the present complaint and seeks to withdraw the same. On his statement, the aforesaid complaint was dismissed as withdrawn by the Court on the same day.

3. Learned counsel for the petitioner states that the main complaint stands withdrawn by the complainant, in view of the settlement effected between the parties and statement made by respondent no.2 in the trial Court on 2.5.2023. Since the main complaint has been dismissed as withdrawn, as is evident from the perusal of aforesaid order passed by Additional Chief Judicial Magistrate, Narnaul, and the offence between the petitioner and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.

4. Heard learned counsel for the parties.

5. 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. 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. 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.

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.”

6. 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.

7. In the present case the complaint under Section 138 of the Act of 1881 has been dismissed as withdrawn vide order dated 2.5.2023. Once

the impugned complaint has been dismissed as withdrawn on the basis of compromise, then the continuance of the proceedings arising from the complaint would be an abuse of the process of Court.

8. Therefore, keeping in view the above-said facts and circumstances, the present petition is allowed and FIR No.190, dated 21.3.2023, under Sections 174-A of the Indian Penal Code, 1860, registered at Police Station City Narnaul, District Mahendergarh (Annexure P-1), as well as order dated 16.11.2022 with all subsequent proceedings arising therefrom, are hereby quashed qua the petitioner.

(SANDEEP MOUDGIL)
JUDGE

28.5.2024
Ashwani

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