



CRM-M-29587-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.291

Case No. : CRM-M-29587-2024

Date of Decision : July 04, 2024

Sunil Rawat Petitioner

vs.

State of Haryana and another Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Tanmoy Gupta, Advocate
for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

Mr. Amit Gautam, Advocate
for Mr. Abhishek Goyal, Advocate
for respondent no.2.

* * *

GURBIR SINGH, J. :

1. Prayer in the present petition filed under Section 482 Cr.P.C., is for quashing/setting aside FIR No.0046 dated 20.01.2023, under Section 174-A IPC, registered at Police Station Ballabgarh City, District Faridabad (Annexure P-3), arising out of the Order dated 11.01.2023, passed by learned Judicial Magistrate Ist Class, Faridabad (hereinafter referred to as – Trial Court) (Annexure P-2), in complaint bearing No. NACT-3536-2015 dated 28.07.2015, titled “Ashok Kumar Kashyap vs. Sunil Rawat etc.” (CNR No.HRFB030000822015) (Annexure P-1).

2. In compliance with the order dated 07.06.2024, learned State



counsel has filed reply by way of affidavit of Vinod Kumar, HPS, Assistant Commissioner of Police, Ballabgarh, Faridabad on behalf of respondent no.1/State of Haryana. The same is ordered to be taken on record.

3. Learned counsel for the petitioner has submitted that respondent no.2 filed complaint under Section 138 of the Negotiable Instruments Act (Annexure P-1), against the petitioner for dishonouring of cheque, wherein the petitioner was declared proclaimed person vide order dated 11.01.2023 (Annexure P-2). In the said order, direction was given to the police for proceeding under Section 174-A IPC and accordingly, FIR in question (Annexure P-3) was registered against the petitioner. Learned counsel has further intimated that the aforesaid complaint under Section 138 of the Negotiable Instruments Act (Annexure P-1) has been dismissed as withdrawn, vide order dated 17.04.2023 (Annexure P-4) passed by learned Trial Court, as the parties have amicably settled their dispute and have entered into compromise. The said fact has not been disputed by learned counsel appearing on behalf of respondent no.2/complainant.

4. I have heard learned counsel for the parties and perused the case file.

5. It is settled law, when the main case under Section 138 of the Negotiable Instruments Act, out of which FIR has arisen, stands settled between the parties, then continuation of proceedings under Section 174-A IPC would be nothing but an abuse of the process of Court.

6. Learned counsel for the petitioner has placed reliance upon the orders dated 20.07.2022 and 24.08.2022 respectively, passed by Co-ordinate



Bench of this Court in CRM-M-46062-2017 titled as Jatin Dhawan and another vs. State of Haryana and another and CRM-M-12534-2022 titled Krishan Kumar vs. State of Haryana and another, 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. Another Co-ordinate Bench of this Court in a case titled 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 174A 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. In view of the above facts, the present petition is allowed and order dated 11.01.2023, passed by learned Trial Court (Annexure P-2), whereby the petitioner has been declared proclaimed person is set aside and consequently, the FIR in question bearing No.0046 dated 20.01.2023, under Section 174-A IPC, registered at Police Station Ballabgarh City, District Faridabad (Annexure P-3), is hereby quashed along with all consequential proceedings arising therefrom, subject to deposit of Rs.10,000/-, within two weeks, in the fund of ***“Punjab and Haryana High Court Employees’ Welfare Association”***. Copy of Receipt be produced in the Registry immediately and same be annexed with this file.

10. Pending applications, if any, shall stand disposed of along with this judgment.

July 04, 2024

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(GURBIR SINGH)

JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.