

2024:PHHC:097143



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

284/1

**CRM M-34764 of 2024
Date of Decision: 30.07.2024**

Sandeep Chauhan

...Petitioner

Vs.

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Abhay Chauhan, Advocate, for the petitioner.
Mr. Rajinder Kumar Banku, DAG, Haryana.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 528 of Bhartiya Nagrik Suraksha Sanhita with a prayer to quash the FIR No. 480 dated 31.10.2022 under Section 174-A IPC, Police Station Sector 7, Panchkula (Annexure P-2) and all subsequent proceedings arising therefrom.

2. Learned counsel for the petitioner contends that State Bank of India filed a complaint under Section 138 of the Negotiable Instruments Act 1881 (hereinafter to be referred as '**the Act**') against the petitioner in the Court of Judicial Magistrate 1st Class, Panchkula, on account of dishonour of cheque bearing No. 000212 dated 07.02.2019 for a sum of Rs. 3,46,314/-. Vide order dated 30.04.2019, the petitioner was ordered to be summoned as an accused in the said complaint. The petitioner was not aware of the pendency of the proceedings before the Court of Magistrate. Ultimately, vide order

dated 14.10.2022, the Court of Judicial Magistrate 1st Class, Panchkula, declared the petitioner as proclaimed person. Even, the procedure as prescribed under Section 82 of the Cr.P.C. was not followed by the Magistrate and in compliance of the order passed by the trial Court, FIR No. 480 dated 31.10.2022 under Section 174-A IPC, Police Station Sector 7, Panchkula (Annexure P-2) was ordered to be registered against the present petitioner.

3. Learned counsel for the petitioner contends that when the petitioner came to know about the pendency of the complaint against him, he approached the officials of State Bank of India and vide order dated 11.05.2024 (Annexure P-3), the main complaint under Section 138 of the Act was withdrawn by the complainant-bank. Since the main case has already been withdrawn by the complainant-bank in view of the compromise between the parties, the continuation of the proceedings against the petitioner would be an abuse of the process of the law.

4. On the other hand, learned State counsel could not dispute the factual submissions made by learned counsel for the petitioner.

5. 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.”

6. 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.

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 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.”

8. In the present case also, the main case has already been withdrawn by the complainant. Consequently, the continuation of the proceedings arising from the order dated 14.10.2022 (Annexure P-1) and the FIR No. 480 dated 31.10.2022 under Section 174-A IPC, Police Station Sector 7, Panchkula (Annexure P-2) 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”.**

9. In view of the above, the present petition is allowed and order dated 14.10.2022 (Annexure P-1) and FIR No. 480 dated 31.10.2022 under Section 174-A IPC, Police Station Sector 7, Panchkula (Annexure P-2) alongwith all subsequent proceedings arising therefrom are hereby ordered to be quashed.

30.07.2024

amit rana

(N.S.SHEKHAWAT)

JUDGE

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