



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

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CRM M-34535 of 2024 (O&M)

Date of Decision: 25.07.2024

Suraj Keshwar

...Petitioner

Vs.

State of Haryana and another

...Respondent

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

Present : Mr. Naveen Sheokand and Mr. Deepak Jaglan, Advocates
for the petitioner.

Mr. D.K. Singal, Advocate, for the respondent.

N.S.SHEKHAWAT, J. (Oral)

CRM 29548 of 2024

Allowed as prayed subject to all just exceptions.

Amended memo of parties is taken on record.

CRM M-34535 of 2024

1. The petitioner has filed the present petition under Section 482 Cr.P.C., with a prayer to quash the order dated 24.04.2023 (Annexure P-2) passed by the Court of Judicial Magistrate 1st Class, Karnal, in a Criminal Complaint No. NACT-4564 of 2016 titled as “**Axis Bank Ltd. Vs. Suraj**”, whereby, the present petitioner has been declared as a proclaimed person and the FIR No. 852 dated 22.05.2023 under Section 174-A, Police Station Civil Lines (Annexure P-3) and FIR No. 1038 dated 02.07.2023, Police Station Civil Lines, Karnal (Annexure P-4) and all subsequent proceedings arising therefrom.

2. Learned counsel for the petitioner contends that respondent No. 2/complainant filed a complaint under Section 138 of the Negotiable Instruments Act 1881 (hereinafter to be referred as '**the Act**') against the petitioner on account of dishonour of cheque bearing No. 008103 dated 19.04.2018. The petitioner never received any summons or warrants with regard to the pendency of the case before the trial Court. Ultimately, vide order dated 24.04.2023 (Annexure P-2), the petitioner was ordered to be declared as proclaimed person by the Court of Judicial Magistrate 1st Class, Karnaal. In pursuance of the order dated 24.04.2023 (Annexure P-2), the police registered two FIRs, i.e., FIR No. 852 dated 22.05.2023 under Section 174-A, Police Station Civil Lines (Annexure P-3) and FIR No. 1038 dated 02.07.2023, Police Station Civil Lines, Karnal (Annexure P-4) against the present petitioner. After the registration of the FIR's, the petitioner came to know about the pendency of the complaint against him and he immediately approached the complainant party and compromised the matter. The authorized representatives of the complainant-bank appeared before the trial Court on 13.02.2024 and the complaint was withdrawn from the trial Court. Learned counsel further contends that since the main complaint has already been ordered to be withdrawn by the complainant, the continuation of the proceedings in pursuance of order (Annexure P-2), FIR's (Annexures P-3 and P-4) would be an instrument of abuse of the process of law.

3. Learned counsel appearing on behalf of the State of Haryana as well as respondent No. 2 did not dispute the factual submissions made by learned counsel for the petitioner. Learned counsel appearing on behalf of respondent No. 2-complainant submits that he has no objection, in case, the impugned order dated 24.04.2023 (Annexure P-2) and the FIR No. 852 dated 22.05.2023 under Section 174-A, Police Station Civil Lines (Annexure P-3) and FIR No. 1038 dated 02.07.2023, Police Station Civil Lines, Karnal (Annexure P-4) are ordered to be quashed by this Court.

4. 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.”

5. 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.

6. 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.”

7. In the present case also, the main case has already been withdrawn by the complainant. Consequently, the continuation of the proceedings arising from the impugned order dated 24.04.2023

(Annexure P-2) and the FIR No. 852 dated 22.05.2023 under Section 174-A, Police Station Civil Lines (Annexure P-3) and FIR No. 1038 dated 02.07.2023, Police Station Civil Lines, Karnal (Annexure P-4) 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”.

8. In view of the above, the present petition is allowed and impugned order dated 24.04.2023 (Annexure P-2) and the FIR No. 852 dated 22.05.2023 under Section 174-A, Police Station Civil Lines (Annexure P-3) and FIR No. 1038 dated 02.07.2023, Police Station Civil Lines, Karnal (Annexure P-4) alongwith all subsequent proceedings arising therefrom are hereby ordered to be quashed.

25.07.2024

(N.S.SHEKHAWAT)

amit rana

JUDGE

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