

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-36255-2024
Decided on 31.07.2024

Mukesh Thapar ... Petitioner

VS.

State of Punjab & Anr. ... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Sanjeev Kumar Bawa, Advocate for the petitioner

Sandeep Moudgil, J.

(1). This is a petition under Section 528 of Bharatiya Nagrik Suraksha Sanhita, 2023 (BNSS) for quashing the order dated 24.10.2016 (Annexure P4) vide which the petitioner has been declared proclaimed offender in case FIR No.027 dated 20.05.2013 (Annexure P1) under Sections 307/323/324/325 (Sections 148/149 IPC added later on), registered at Police Station Satnampura, District Kapurthala, on the basis of compromise (Annexure P6).

(2). Learned counsel for the petitioner states that the order passed by the Addl. Sessions Judge, Kapurthala suffers from illegality, perversity and the same is liable to be set aside as the proclamation was issued against the petitioner on 04.10.2016 relying on the report of the serving officer in the police station as he did not meet the petitioner at home whereas the petitioner had left the country after he was found innocent by the police and thereafter came back to India only on 18.07.2014 i.e. after almost 1 year.

(3). He further contends that this Court vide separate order of even date passed in CRM-M-35664-2024 has already issued notice in a petition filed by the petitioner seeking quashing of the FIR No.27 dated 20.05.2013

on the basis of compromise arrived at between the parties and as such, continuation of the present proceedings under Section 174-A IPC would be nothing but an abuse of process of law.

(4). Notice of motion.

(5). On the asking, Mr. Rajiv Verma, DAG Punjab accepts notice on behalf of respondent No.1 and Mr. Mukesh Kumar Bhatnagar, Advocate has filed memo of appearance on behalf of respondent No.2 which is taken on record.

(6). Learned counsel for respondent No.2 submits that vide settlement deed dated 18.07.2024 (Annexure P-6), the matter has been amicably settled between the petitioner and the respondent No.2 and he has no objection if the present FIR is quashed on the basis of compromise between the parties.

(7). Heard learned counsel for the parties.

(8). Admittedly, this Court has called for the report of the factum of compromise between the parties and as such continuation of proceedings under Section 174-A of IPC cannot be permitted by this Court. This principle has been laid down in several dictums of this Court viz. **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.

(9). 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."

(10). A perusal of the relevant extract of the above judgment would show that where the main case was dismissed for want of prosecution or that the parties have buried their hatchet by arriving at a settlement, it was observed that the continuation of proceedings under Section 174-A of the IPC shall be an abuse of the process of court.

(11). In view of the above discussion and also taking into consideration the fact that the parties have arrived at a compromise regarding which report of the trial court has been called for in CRM-M-35664-2024 and also the fact that the offence between the petitioner and complainant is personal in nature and not against the society at large, who have resolved

their dispute, no fruitful purpose would be served by continuing the proceedings under Section 174-A IPC, in the instant case.

(12). Accordingly, the present petition is allowed and the order dated 24.10.2016 (Annexure P4) vide which the petitioner has been declared proclaimed offender in case FIR No.027 dated 20.05.2013 (Annexure P1) under Sections 307/323/324/325 (Sections 148/149 IPC added later on), registered at Police Station Satnampura, District Kapurthala, on the basis of compromise (Annexure P6), *qua* the petitioner is hereby set aside.

31.07.2024
V.Vishal

(Sandeep Moudgil)
Judge

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No