



CRM-M-42353-2024

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

CRM-M-42353-2024

Date of Decision: 30.08.2024

Ram Kishan

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Manjit Singh Gahlawat, Advocate, for the petitioner.
Mr. Sumit Jain, Addl. AG, Haryana.

Rajesh Bhardwaj, J. (Oral)

1. Prayer in the present petition is for quashing of FIR No.232 dated 31.03.2020 registered under Section 174-A IPC, at Police Station Urban Estate, Hisar (Annexure P-1) and all the subsequent proceedings arising therefrom, the PO proceedings arose in Complaint No.1754/2017 under Section 138 NI Act, instituted on 21.08.2017 and for setting aside the order dated 04.07.2019 passed by learned JMIC, Hisar (Annexure P-2)

2. Learned counsel for the petitioner has submitted before this Court that the main complaint under Section 138 of NI Act was already settled on the basis of the compromise with the complainant and the complainant assured to withdraw the complaint before the trial Court. He submits that during the pendency of the complaint, complainant appeared late on 06.08.2019 to withdraw the complaint, however, the Court below already declared the petitioner as proclaimed offender on 04.07.2019. He further submits that memo of the same was received by the concerned Police Station on 06.07.2019 and the impugned FIR was registered on 31.03.2020 after a long delay of 8 months, whereas, the main complaint was already dismissed as withdrawn on 06.08.2019 on the basis of the



compromise effected between the parties. He submits that in the facts and circumstances of the case, prosecution of the petitioner in the impugned FIR registered under Section 174-A would be totally an abuse of the process of the law.

3. Learned State counsel on the other hand contends that the petitioner was rightly declared as proclaimed person, pursuant to which FIR under Section 174-A of IPC was registered against the petitioner and the petitioner is liable to be prosecuted.

4. I have heard counsel for the parties and perused the record. It is apparent that the present FIR was registered due to non-appearance of the petitioner and he was declared as a proclaimed person vide order dated 04.07.2019, however, on the very next date of hearing, the main complaint was dismissed as withdrawn by the complainant in view of the compromise arrived at between them. It is also apparent that the impugned FIR was registered after a delay of 8 months from the date when the main case was withdrawn. As submitted before this Court, the petitioner has cleared all the dues and the complaint also stands withdrawn. As complaint, root cause of litigation itself has already been withdrawn by the complainant, so continuation of the proceedings under Section 174-A of IPC would not serve any purpose. A coordinate 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.”

5. A similar view has been taken by this Court in “Anil Kumar Versus Jitender Kumar and another, CRM-M-5878- 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.

6. So, keeping in view the above-said facts, it is clear that the FIR was registered on account of absence of the petitioner and now the complaint has already been withdrawn in view of the compromise between the parties. Continuation of the proceedings under Section 174-A of IPC shall be abuse of the process of the law. Keeping in view the law settled, the order dated 04.07.2019 (Annexure P-2) passed by the learned JMIC, Hisar, whereby, the petitioner was declared Proclaimed Person along with subsequent proceedings arising out of the same including FIR No.232 dated 31.03.2020 registered under Section 174-A IPC, at Police Station Urban Estate, Hisar (Annexure P-1), are quashed.

7. Petition stands allowed.

30.08.2024

sharmila

(RAJESH BHARDWAJ)

JUDGE

Whether Speaking/Reasoned

:

Yes/No

Whether Reportable

:

Yes/No