



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

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**CRM M-36445 of 2024
Date of Decision: 01.08.2024**

Rajesh Kumar

...Petitioner

Vs.

State of Haryana and another

...Respondent

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

Present : Mr. Pankaj Kaushik, Advocate, for the petitioner.
Ms. Sheenu Sura, DAG, Haryana.
Mr. Bindu Ranwar, Advocate, for the complainant.

N.S.SHEKHAWAT, J. (Oral)

CRM 30579 of 2024

1. Allowed as prayed for.
2. Main case is preponed and is taken up for hearing today itself.

CRM M-36445 of 2024

1. The petitioner has filed the present petition under Section 482 Cr.P.C. with a prayer to quash the impugned order dated 05.06.2023 (Annexure P-4) passed by the Judicial Magistrate 1st Class, Panipat, whereby, the petitioner has been declared as proclaimed person in a complaint case No. NACT-1154-2018 titled as “**Sunil Kharb Vs. Rajesh Kumar**”.
2. Learned counsel for the petitioner contends that respondent No. 2 had filed a criminal complaint bearing

No. NACT-1154-2018 titled as “**Sunil Kharb Vs. Rajesh Kumar**” under Section 138 of the Negotiable Instruments Act 1881 (hereinafter to be referred as '**the Act**') against the present petitioner in the year 2018. Since, the petitioner was never served, he could not appear before the trial Court and ultimately, vide judgment dated 12.11.2018, the petitioner was convicted for the offence under Section 138 of the Act and sentenced to pay a fine of Rs. 2.10 lacs which includes Rs.5,000/- as litigation expenses. The petitioner was also sentenced to undergo simple imprisonment for a period of one year. Further, in case of non-payment of the fine, the petitioner was sentenced undergo simple imprisonment for a period of 03 months, which shall be in addition to the substantive sentence.

3. In the meantime, the petitioner was declared as a proclaimed person and one FIR No. 1458 dated 29.10.2018 under Section 174-A IPC, Police Station City Panipat was ordered to be registered against the present petitioner. Against the impugned judgment and order dated 12.11.2018 (Annexure P-1), the petitioner filed a Criminal Appeal, i.e., CRA-468-2018 before the Court of Sessions Judge, Panipat. During the pendency of the appeal before the Additional Sessions Judge, Panipat, the parties entered into a compromise and the matter was amicably resolved between the parties. Accordingly, vide order dated 12.09.2022 (Annexure P-3), the offence was allowed to be compounded in view of the compromise

between the parties and the present petitioner was ordered to be acquitted by the appellate Court.

4. Learned counsel for the petitioner further contends that in the present case, the main offence was under Section 138 of the Act and now the parties have amicably resolved all their disputes and are living peacefully since long. Even, the petitioner has been ordered to be acquitted by the Court of Additional Sessions Judge, Panipat. Further, the very purpose of declaring the petitioner as proclaimed person and the registration of the FIR No. 1458 dated 29.10.2018 under Section 174-A IPC, Police Station City Panipat was to procure the presence of the petitioner and since the petitioner has already been acquitted, the continuation of the PO proceedings and the FIR would be an abuse of the process of the Court. He, thus, prayed that the impugned order dated 05.06.2023 (Annexure P-4), FIR No. 1458 dated 29.10.2018 under Section 174-A IPC, Police Station City Panipat and all subsequent proceedings may be quashed.

4. On the other hand, learned State counsel as well as learned counsel for the complainant 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 parties have already compounded the offence and the petitioner has been ordered to be acquitted by the Court of Additional Sessions Judge, Panipat on 12.09.2022 vide order (Annexure P-3). Consequently, the continuation of the proceedings arising from the order dated 05.06.2023 (Annexure P-4) and FIR No. 1458 dated 29.10.2018 under Section 174-A IPC, Police Station City Panipat 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 05.06.2023 (Annexure P-4) and FIR No. 1458 dated 29.10.2018 under Section 174-A IPC, Police Station City Panipat alongwith all subsequent proceedings arising therefrom are hereby ordered to be quashed.

01.08.2024

(N.S.SHEKHAWAT)

amit rana

JUDGE

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