

2024:PHHC:114352



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM M-40744 of 2023
Date of Decision: 02.09.2024

Kamaljeet Singh ...Petitioner
Versus
State of Punjab and another ... Respondents

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

Present : Mr. Sukpal Singh, Advocate, for the petitioner.

Mr. Deepinder Singh Brar, Sr. DAG, Punjab.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 482 of Cr.P.C. with a prayer to quash the order dated 05.08.2023 (Annexure P-27) passed by the Judicial Magistrate 1st Class, Fatehgarh Sahib, whereby, the petitioner was declared a proclaimed offender. A further prayer has been made to quash the FIR No. 212 dated 24.11.2019 under Section 174-A IPC, Police Station Fatehgarh Sahib (Annexure P-5), which was ordered to be registered against the present petitioner.

2. Learned counsel for the petitioner contends that the respondent/complainant, i.e., HDFC Bank Ltd. had filed a complaint bearing No. NACT/10/2019 titled as “**HDFC Bank Ltd. Vs. Kamaljeet Singh**”, under Section 138 of the Negotiable Instruments

Act 1881 (hereinafter to be referred as '**the Act**'), against the present petitioner. During the pendency of the complaint, preliminary evidence was led before the trial Court by respondent No. 2/complainant and the petitioner was ordered to be summoned. However, the summons/warrants were never served on the petitioner. Learned counsel further contends that ultimately, without following the due process of law, the petitioner was ordered to be declared a proclaimed offender in the present case vide the impugned order dated 05.08.2023 (Annexure P-27). Learned counsel further contends that after declaring the petitioner as proclaimed offender in the present case, FIR No. 212 dated 24.11.2019 under Section 174-A IPC, Police Station Fatehgarh Sahib, was ordered to be registered against the present petitioner. Learned counsel for the petitioner submits that after the registration of the FIR (Annexure P-5), the petitioner came to know about the pendency of the complaint (Annexure P-1) against him and he compromised the matter with respondent No. 2. Consequently, on 07.01.2020, learned counsel for respondent No. 2/complainant submitted that the matter had been compromised between the parties and he did not want to pursue the main complaint and had withdrawn the complaint. Consequently, vide order dated 08.02.2020 (Annexure P-4), the complaint was withdrawn from the trial by respondent No. 2. He further contends that the very purpose of the impugned order and FIR was to procure the presence of the petitioner and since the main matter has already stands compromised

between the parties, the proceedings arising out of impugned order dated 05.08.2023 (Annexure P-27) and FIR (Annexure P-5) are liable to be quashed by this Court.

3. 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.”

4. 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.

5. 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.”

6. In the present case also, the main case has already been withdrawn by the complainant. Consequently, the continuation of the proceedings arising out of order dated 05.08.2023 (Annexure P-27) and FIR No. 212 dated 24.11.2019 under Section 174-A-C, Police Station Fatehgarh (Annexure P-5) 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”.

7. Even otherwise, as per provisions of Section 82 of the Cr.P.C., the petitioner could at the worst be declared as proclaimed person and not proclaimed offender and in view of this fact also, the impugned order and the FIR are liable to be quashed.

8. In view of the above, the order dated 05.08.2023 (Annexure P-27) and FIR No.212 dated 24.11.2019 under Section 174-A, Police Station Fatehgarh Sahib (Annexure P-5) alongwith all consequential proceedings arising therefrom are hereby ordered to be quashed.

9. The petition stands allowed.

02.09.2024
amit rana

(N.S.SHEKHAWAT)
JUDGE

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