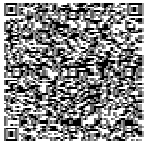


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IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

128

CRM-M-40022-2024 (O&M)
Date of decision : 09.09.2024

Jaskaran Singh

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Lupil Gupta, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. The petitioner is seeking quashing of order dated 05.07.2022, passed by the Judicial Magistrate First Class, Dabwali in Criminal Complaint No.NACT-100/2017 titled as *M/s Sandeep Kumar vs. Jaskaran Singh*, filed under Section 138 of Negotiable Instruments Act, 1881 (*for short "NI Act"*), whereby he was declared a proclaimed person as well as for quashing of the FIR bearing No. 331 dated 15.07.2022, registered under Section 174-A of IPC at Police Station City Mandi Dabwali, District Sirsa along with all the subsequent proceedings arising therefrom.

2. Learned counsel for the petitioner has submitted that in the present case, a complaint under Section 138 read with 142 of the N. I. Act was filed by respondent No. 2/complainant-M/s Sandeep Kumar Satish Kumar against the present petitioner and another co-accused for dishonour of a cheque and in the said proceedings, the petitioner was illegally declared as proclaimed person, vide impugned order dated 05.07.2022 and a direction was issued to the police

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to register an FIR under Section 174-A of IPC against the petitioner, in pursuance of which, the impugned FIR was registered. It is further submitted that on coming to know about the aforesaid proceedings, the petitioner had approached the complainant and paid the cheque amount, in pursuance of which, respondent No. 2/complainant, while appearing before the trial Court on 12.03.2024, had made a statement that he had received the entire cheque amount and did not want to proceed with the complaint and, therefore, the complaint was dismissed as withdrawn, vide order dated 12.03.2024 (Annexure P-3). It is further submitted that once the complaint under Section 138 N.I. Act has been withdrawn, the present FIR under Section 174-A IPC deserves to be quashed.

3. Learned State counsel, on the other hand, has opposed the present petition and has submitted that the present FIR has been registered in pursuance of the order passed on 05.07.2022 passed by the trial Court and, therefore, the present petition deserves to be dismissed.

4. I have heard learned counsel for the parties at considerable length and have also gone through the record carefully.

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 (CrI.) 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.

xxx xxx xxx

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 N. I. Act, declaring the petitioner therein as a proclaimed person, the co-ordinate Bench after relying upon various judgments observed that once the main petition under Section 138 of the N. I. 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

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as proclaimed person as well as quashing of the FIR under Section 174-A IPC.

7. Reference can also be made to the judgment of this Court rendered in “*Ashok Madan vs. State of Haryana and another*” reported as 2020(4) RCR (Criminal) 87, wherein it was held as under:-

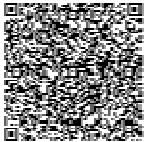
“No doubt, the learned counsel for the respondent has vehemently argued that the offence under Section 174A I.P.C. is independent of the main case, therefore, merely because the main case has been dismissed for want of prosecution, the present petition cannot be allowed, however, keeping in view the 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. A perusal of the aforesaid judgment would reveal that where the main case was dismissed for want of prosecution, it was observed that the continuation of proceedings under Section 174-A IPC would be an abuse of the process of court.

9. In this case, the respondent No. 2/complainant had filed a complaint under Section 138 of N.I. Act against the present petitioner with respect to dishonour of a cheque and in the said proceedings, it is the case of the petitioner that he was illegally declared proclaimed person, vide order dated 05.07.2022,

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whereby direction was also given to register an FIR under Section 174-A of IPC against him and in pursuance of the said order, present FIR has been registered. A perusal of the order dated 12.03.2024 reveals that the complaint filed by the complainant under Section 138 of N. I. Act has been dismissed as withdrawn on the basis of the statement made by respondent No. 2/complainant that a compromise had arrived at between the parties and he did not want to pursue the case. This Court is of the considered opinion that once the proceedings under Section 138 N.I. Act had been withdrawn, then the order declaring the petitioner as a proclaimed person is liable to be set aside and the aforementioned FIR under Section 174-A IPC also deserves to be quashed.

10. Keeping in view the above said facts and circumstances and in view of the law laid down in the above said judgments, the present petition is allowed. The impugned order dated 05.07.2022 as well as the FIR No. 331 dated 15.07.2022, registered under Section 174-A of IPC at Police Station City Mandi Dabwali, District Sirsa along with all the subsequent proceedings arising therefrom are hereby quashed.

09.09.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No