



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM M- 39560 of 2019
Date of Decision: 02.09.2024

Ram Dass ...Petitioner
Versus
State of Haryana ... Respondent

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

Present : Mr. Sukhdeep Singh, Advocate for
Mr. Parminder Singh, Advocate, for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

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 29.04.2019 (Annexure P-3) passed by the Judicial Magistrate 1st Class, Panipat, whereby, the petitioner was declared a proclaimed person and the SHO, Police Station Bapoli, Panipat, was directed to register a FIR under Section 174-A IPC against the present petitioner. A further prayer has been made to quash the FIR No. 0082 dated 05.08.2019 under Section 174-A IPC, Police Station Bapoli, District Panipat (Annexure P-5), which was ordered to be registered against the present petitioner.
2. Learned counsel for the petitioner contends that the respondent/complainant, namely, Jasbir Singh, had lodged a

complaint under Section under Section 138 of the Negotiable Instruments Act 1881 (hereinafter to be referred as '**the Act**') against Sunil Kumar, accused in the present case. Vide order dated 27.09.2016, Sunil Kumar was summoned under Section 138 of the Act to face trial before the trial Court. In compliance of the summoning order, Sunil Kumar, accused appeared before the trial Court and the petitioner stood as surety before the trial Court. However, in the meantime, Sunil Kumar, accused disappeared during the trial and had stopped appearing before the trial Court. Even, the warrants could not be served by him and, ultimately, Sunil Kumar, was declared to be a proclaimed person by the trial Court. In the meantime, notice was also issued to the petitioner, who had stood surety for Sunil Kumar and the proceedings under Section 446 Cr.P.C. were ordered to be initiated against the present petitioner. Learned counsel further contends that even the summons/warrants were issued against the present petitioner, but the same were never served on the present petitioner. Ultimately, vide order dated 29.04.2019, the petitioner was declared as proclaimed person and the SHO of Police Station Bapoli, Panipat, was directed to register the FIR under Section 174-A IPC against the present petitioner. Learned counsel further contends that in the meantime, Sunil Kumar, accused came to know about the pendency of the complaint under Section 138 of the Act against him and he compromised his matter with Jasbir Singh, complainant. Consequently, vide order dated 14.03.2019, the main

complaint under Section 138 of the Act was withdrawn by Jasbir Singh from the trial Court. Learned counsel further contends that in the present case, Sunil Kumar, main accused, has already been acquitted because Jasbir Singh, complainant, has already withdrawn the main complaint against him. 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 29.04.2019 (Annexure P-3) 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 29.04.2019 (Annexure P-3) and FIR No. 0082 dated 05.08.2019 under Section 174-A-C, Police Station Bapoli, District Panipat (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. Since the proceedings under Section 446 Cr.P.C. are still pending before the trial Court, the petitioner is directed to appear before the trial Court and join the proceedings within a period of 06 weeks from today. The trial Court may take lenient view in the present case as the petitioner had only stood surety for Sunil Kumar, accused, who has already been acquitted by the trial Court in view of the withdrawal of the complaint by the complainant.

8. In view of the above, the order dated 29.04.2019 (Annexure P-3) and FIR No.0082 dated 05.08.2019 under Section 174-A, Police Station Bapoli, District Panipat (Annexure P-5) alongwith all consequential proceedings arising therefrom are hereby ordered to be quashed.

9. The petition stands allowed in above terms.

02.09.2024
amit rana

(N.S.SHEKHAWAT)
JUDGE

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