



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

CRM-M-43876-2023
Date of Decision:05.12.2024

Rohit Kumar

...Petitioner

Vs.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present: Mr. Amit Singla, Advocate
for the petitioner.

Mr. Rajinder Kumar Banku, Deputy Advocate General, Haryana.

1. The petitioner has filed the present petition under Section 482 of Cr. P.C with a prayer to quash FIR No. 346, dated 01.07.2023, registered under Section 174-A of IPC, Police Station City Fatehabad, District Fatehabad, Haryana (Annexure P-2) as well as the order dated 05.06.2023 (Annexure P-1) passed by the Court of Judicial Magistrate Ist Class, Fatehabad in a criminal complaint No.904/2019, whereby, the petitioner was declared as proclaimed person and all subsequent proceedings arising therefrom.

2. Learned counsel for the petitioner contends that the petitioner was falsely involved in a criminal complaint No.904/2019, titled as "*M/s Tirupati Balaji Fruit Vs. Rohit Kumar*", under Section 138 of the Negotiable Instruments Act. Learned counsel further contends that the petitioner was not properly served in the said complaint and ultimately, vide order dated 05.06.2023 (Annexure P-1), he was declared as a proclaimed person. Finally, one FIR No. 346, dated 01.07.2023, under Section 174-A of IPC, Police Station



City Fatehabad, District Fatehabad, Haryana (Annexure P-2) was also ordered to be registered against the petitioner. When the petitioner came to know about the pendency of the FIR against him, he immediately contacted the complainant and made the payment to him. Consequently, the complainant Pawan Kumar son of Dharam Chand appeared before the Trial Court and made a statement for withdrawal of the complaint. Consequently, vide order dated 05.07.2023 (Annexure P-4), the complaint was withdrawn from the Court of Judicial Magistrate Ist Class, Fatehabad. Learned counsel for the petitioner further contends that the main object of initiation of proceedings under Section 82 of Cr. P.C was to procure the presence of the petitioner and since the proceedings under Section 138 of the Negotiable Instruments Act have already been withdrawn, no purpose will be served by keeping the FIR (Annexure P-2) alive and the impugned order dated 05.06.2023 (Annexure P-1) as well as the FIR (Annexure P-2) are liable to be quashed by this Court, being an abuse of the process of the Court.

3. On the other hand, learned State counsel submits that the petitioner had intentionally evading the process of law and did not appear before the Trial Court. Learned State counsel further submits that the petitioner has not been able to point out any illegality in the impugned order passed by the Trial Court and the petition deserves to be dismissed by this Court.

4. I have heard the learned counsel for the parties and perused 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 (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 regularized 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 main case has already been withdrawn by the complainant. Consequently, the continuation of the proceedings arising out of FIR No. 346, dated 01.07.2023, registered under Section 174-A of IPC,



Police Station City Fatehabad, District Fatehabad, Haryana (Annexure P-2) 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 impugned order dated 05.06.2023 (Annexure P-1) and FIR No. 346, dated 01.07.2023, registered under Section 174-A of IPC, Police Station City Fatehabad, District Fatehabad, Haryana (Annexure P-2) alongwith all subsequent proceedings arising therefrom are hereby ordered to be quashed.

(N.S.SHEKHAWAT)
JUDGE

05.12.2024
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No