

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-44083-2023
DECIDED ON: 20.01.2024

PANKAJ DAYAL
.....PETITIONER

VERSUS

STATE OF HARYANA AND ANOTHER
.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

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

Mr. Gurbir Singh Dhillon, AAG Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Section 482 has been invoked for quashing of order dated 19.04.2017 (Annexure P-1) passed by JMIC, Karnal in Crl. Complaint Case No. NACT-1971-2016 dated 01.08.2017 filed under Section 138 of the Negotiable Instruments Act, 1881 titled as *Rakesh Kumar Midha vs. M/s. Real Tech Construction Pvt. Ltd.*; whereby, the petitioner has been declared as proclaimed person.
2. Learned counsel for the petitioner has submitted that in the present case, a complaint was filed against the petitioner under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter to be referred as “the Act of 1881”) and in the said complaint, the petitioner was declared as proclaimed person vide order dated 19.04.2017 (Annexure P-1).
3. Learned counsel for the petitioner has further submitted that a compromise has been effected between the parties, which is annexed with the present petition as Annexure P-3.

4. Heard, learned counsel for the respective parties.
5. The principle that once the main case is dismissed as withdrawn, the continuation of proceedings under Section 174-A IPC shall be an abuse of process of law has been laid down in several dictums of this Court and reliance can be placed upon the orders dated 20.07.2022 and 24.08.2022 respectively, passed by a coordinate Bench of this Court in CRM-M-46062-2017, titled as ***“Jatin Dhawan and another versus State of Haryana and another”*** and CRM-M-12534-2022, titled as ***“Krishan Kumar versus State of Haryana and another”***, respectively.
6. Further reliance can be placed upon the orders of this Court dated 12.12.2022 and 13.12.2022 passed in CRM-M-55634-2022 titled as ***“Jinder Singh Vs. State of Punjab and another”*** and CRM-M-45051-2022 titled as ***“Hari Singh Meena Vs. State of Haryana”***, respectively in this regard.
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 174-A I.P.C. Shall be abuse of the process of court. Accordingly, the petition is allowed. FIR No.446 dated 21.08.2017, registered under Section 174-A I.P.C. At Police Station Kotwali, District Faridabad, as well as consequential proceedings shall stand quashed.”

8. In view of the compromise dated 17.10.2018 (Annexure P-3) effected between the petitioner and the respondent No.2 before the trial Court, wherein main complaint stands withdrawn by the complainant on the account that the accused-petitioner has made the payment of cheque, this Court has no reason to decline the present petition, wherein the petitioner has sought the quashing of impugned order dated 19.04.2017 (Annexure P-1) vide which the petitioner was declared proclaimed person.

9. Hence, the present petition is allowed and order dated 19.04.2017 (Annexure P-1) with all subsequent proceedings arising therefrom, is hereby quashed qua the petitioner.

(SANDEEP MOUDGIL)
JUDGE

20.01.2024

Meenu

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