

282 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45606-2023
Date of Decision: 04.03.2024

Parveen Kumar

...Petitioner

VS.

State of Punjab and Anr.

...Respondents

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

Present : Mr. Arnav Sood, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

Mr. Kuldeep Singh Cheema, Advocate
for respondent No.2.

N.S.Shekhawat J.

1. The petitioner has filed the present petition under Section 482 Cr. P.C with a prayer to quash the order dated 05.05.2016 (Annexure P-2) passed by the Court of Judicial Magistrate Ist Class, Shaheed Bhagat Singh Nagar, titled as “Balbir Singh Vs. Parveen Kumar”, whereby the petitioner was declared as a proclaimed person.

2. Learned counsel for the petitioner contends that a complaint No. COMA-4983-2013 was filed by the respondent/complainant against the petitioner in the Court of Judicial Magistrate Ist Class, SBS Nagar. After the filing of the complaint, the petitioner was ordered to be summoned by the Judicial Magistrate Ist class. However, neither the summons nor the warrants were served on the petitioner and ultimately, vide the order dated 05.05.2016 (Annexure P-2) the petitioner was ordered to be declared a proclaimed person

by the Trial Court, without following the due process of law. He further contends that the petitioner/accused has compromised the matter and made the payment of Rs. 15 lacs to respondent/complainant on 10.08.2023. Thereafter, the respondent No.2 agreed to sign the compromise and also agreed to withdraw the complaint, however, the respondent could not withdraw the complaint as the petitioner has already been declared as a proclaimed person.

3. On the other hand learned counsel appearing on behalf of respondent No.2 submits that the respondent had already received a sum of Rs.15 lacs from the present petitioner and the respondent No.2/complainant has no objection in case, the impugned order is set aside by this Court. Learned counsel further prayed that the present petition may be allowed and the impugned order may be quashed as the matter has been amicably resolved between the parties.

4. 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.”

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 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.”

6. In the present case also, the matter has been amicably resolved between the parties vide the compromise deed (Annexure P-3) and the respondent No.2 had agreed to withdraw the complaint. Consequently, the impugned order dated 05.05.2016 (Annexure P-2) passed by the Court of Judicial Magistrate Ist Class, Shaheed Bhagat Singh Nagar, whereby the petitioner has been declared to be proclaimed person and all subsequent proceedings arising therefrom 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. In view of the above, the present petition is allowed and impugned order dated 05.05.2016 (Annexure P-2) and all subsequent proceedings arising therefrom are hereby ordered to be quashed.

04.03.2024
hitesh

(N.S.SHEKHAWAT)
JUDGE

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