

2024.PHHC.118414



118.

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-44866-2024
Date of decision: 10.09.2024

Swaran Singh Petitioner

Versus

State of Haryana and another Respondents

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Paramjit Singh Jammu, Advocate, for the petitioner.
Mr. Karan Sharma, DAG, Haryana, for respondent No.1.
Mr. Santosh Kumar Yadav, Advocate, for respondent No.2.

GURBIR SINGH, J.

1. This petition has been filed under Section 528 of B.N.S.S., 2023 for quashing of FIR No.746, dated 13.12.2023, under Section 174-A IPC, Police Station Rania, District Sirsa, as the petitioner was declared proclaimed person in criminal complaint bearing NACT No.101 of 2020 under Section 138 of Negotiable Instruments Act, 1881 (for short, NI Act) vide order dated 08.11.2023 passed by learned Judicial Magistrate Ist Class, Ellenabad.
2. Learned counsel for the petitioner submits that in the aforesaid complaint, the petitioner has compromised the matter with the complainant and the entire cheque amount has been paid to him. In this respect,

statement of complainant has also been recorded before the learned Magistrate, Ellenabad on 20.08.2024 that he had compromised the matter with the accused-petitioner and did not want to proceed further with the complaint and accordingly, the complaint was withdrawn.

2.1 Learned counsel for the petitioner further submits that since the complaint itself has been withdrawn in view of amicable settlement between the parties, continuation of proceedings under Section 174-A of IPC is nothing but an abuse of process of law.

3. Notice of motion.

4. On advance copy of this petition having been emailed to the office of Advocate General, Haryana, Mr. Karan Sharma, DAG, Haryana appears and accepts notice on behalf of respondent No.1-State. He has opposed the present petition by contending that the petitioner has been rightly declared proclaimed person and the FIR, in question, has been correctly registered against him.

4.1 Appearance has also been caused by Mr. Santosh Kumar Yadav, Advocate, on behalf of respondent No.2 and has filed his *vakalatnama*, which is taken on record. He has fairly admitted that the complaint is withdrawn since the parties have entered into compromise.

5. I have heard the submissions of learned counsel for the petitioner, learned State counsel and have gone through the file.

6. A co-ordinate Bench of this Court in ***CRM-M-43813-2018*** titled as ***Baldev Chand Bansal Versus 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.”

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 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 for quashing of the FIR under Section 174-A IPC.

6.1 Another co-ordinate Bench of this Court in a case titled as ***Ashok Madan Versus State of Haryana and another-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.”

7. In view of above, this Court finds that since the main complaint filed under Section 138 of the Act has been withdrawn in view of amicable settlement between the parties, therefore, continuation of proceedings under Section 174-A of IPC shall be nothing but an abuse of the process of law.

8. Keeping in view the above said facts and circumstances, the present petition is allowed and FIR No.746, dated 13.12.2023, under

Section 174-A IPC, Police Station Rania, District Sirsa and all subsequent proceedings arising therefrom, as well as order dated 08.11.2023 passed by learned Judicial Magistrate Ist Class, Ellenabad, vide which, the petitioner has been declared proclaimed person in criminal complaint bearing NACT No.101 of 2020 under Section 138 of NI Act, are hereby quashed qua the petitioner, however, that would subject to payment of costs of Rs.10,000/- to be deposited by the petitioner with the Institute for Blind, Sector 26, Chandigarh, within three weeks from today and receipt thereof be filed in the Registry immediately thereof, which shall be placed on this file.

(GURBIR SINGH)
JUDGE

September 10, 2024
sanjeev

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