

2024:PHHC:141955



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM M- 45812 of 2024
Date of Decision: 22.10.2024

Jarnail Singh Bajwa ...Petitioner
Versus
State of Punjab ... Respondents

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

Present : Mr. Nikhil Ghai, Advocate with
Mr. Navjot Singh, Advocate
for the petitioner.

Mr. M.S. Bajwa, DAG, Punjab.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 528 of the BNSS, 2023 with a prayer to quash the FIR No. 0064 dated 24.02.2021 under Section 174-A IPC, registered at Police Station City Kharar, District SAS Nagar, Mohali (Annexure P-1) alongwith all the consequential proceedings arising therefrom.
2. Learned counsel for the petitioner contends that Dayal Singh complainant had filed a complaint case, i.e., NACT/246/2018 under Sections 138 of the Negotiable Instruments Act 1881 (hereinafter to be referred as '**the Act**') against the present petitioner. Learned counsel for the petitioner submits the complainant had

entered into an agreement with the petitioner to sell a property but despite making payment, the property was not given to him and upon filing a complaint under Section 138 of the Act by the complainant, the petitioner was declared as a proclaimed offender and one FIR No. 0064 dated 24.02.2021 under Section 174-A Police Station City Kharar, District SAS Nagar (Annexure P-1) was registered against the present petitioner. After the registration of the FIR, with the intervention of the respectables, the petitioner and complainant have settled the matter and complainant suffered a statement before the trial Court that they have compromised the matter. Accordingly, the complaint was ordered to be dismissed as withdrawn by the trial Court vide order dated 21.01.2022 (Annexure P-2). Learned counsel for the petitioner contends that the petitioner was declared to be a proclaimed offender, only to secure his presence before the trial Court. However, since the petitioner has compromised the matter with the complainant and the complaint has already been withdrawn by the complainant, no purpose will be served by prosecuting the petitioner under Section 174-A IPC and the FIR and all subsequent proceedings arising therefrom 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 order dated 30.11.2019 and the FIR No. 0064 dated 24.02.2021 under Section 174-A, Police Station City Kharar District SAS Nagar (Annexure P-1) 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. Even otherwise, as per provisions of Section 82 of the Cr.P.C., the petitioner could at the worst be declared as proclaimed person and not proclaimed offender and in view of this fact also, the order dated 30.11.2019 and the FIR are liable to be quashed.

8. In view of the above, the present petition is allowed and the order dated 30.11.2019 and FIR No. 0064 dated 24.02.2021 under Section 174-A IPC, registered at Police Station City Kharar, District SAS Nagar, Mohali (Annexure P-1) alongwith all consequential proceedings arising therefrom are hereby ordered to be quashed.

22.10.2024
amit rana

(N.S.SHEKHAWAT)
JUDGE

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