

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-49892-2023
DECIDED ON: 15.02.2024

USMAN

.....PETITIONER

VERSUS

STATE OF HARYANA AND ORS.

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Anas Ahmed, Advocate
for the petitioner.

Mr. Gurbir Singh Dhillon, AAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. This is a petition under Section 482 of Cr.P.C., for quashing the order dated 25.04.2016 (Annexure P-1), passed by Judicial Magistrate Ist Class, Mewat, Nuh, whereby the petitioner has been declared proclaimed person and FIR No.38, dated 01.02.2020 (Annexure P-2), under Section 174-A IPC, 1860, registered at Police Station City Nuh, District Nuh.

2. Learned counsel for the petitioner submits that the present FIR came to be registered in pursuance of the criminal complaint bearing No.380 of 2013, filed against the petitioner under section 138 of Negotiable Instrument Act, wherein petitioner was summoned to face the trial but he failed to do so as he was not served with the notice properly which resulted into PO proceedings under Section 82 Cr.P.C.

3. He further states that due to non-appearance of the petitioner, order dated 25.04.2016 (Annexure P-1), declaring the petitioner PO was passed by the Judicial Magistrate Ist Class in pursuance to which the present FIR under Section 174-A IPC got registered.

4. He states that the main complaint under Section 138 of Negotiable Instruments Act titled as “Narender Sharma versus Usman” stands withdrawn by the complainant, in view of the compromise affected between the parties vide order dated 12.03.2022 (Annexure P-4) passed by ACJ(SD), Nuh stating that the matter has been compromised between the complainant/respondent and the accused/petitioner and as such does not want to pursue the present complaint.

5. Heard, learned counsel for the parties.

6. In view of the submissions made by learned counsel for the petitioner that the main complaint stands withdrawn by the complainant on 12.03.2022 therefore, continuation of proceedings under Section 174-A of IPC would be an abuse of process of law. Also, this principle 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 wherein it has been held 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.

7. 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.

8. 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.”

9. A perusal of the relevant extract of the above judgment would show that where the main case was dismissed for want of prosecution, it was observed that the continuation of proceedings under Section 174-A of the IPC shall be an abuse of the process of court.

10. Since the main complaint has been dismissed as withdrawn, as is evident from the perusal of aforesaid order dated 12.03.2022 (Annexure P-4) passed by ACJ(SD), Nuh and the offence between the petitioner and complainant is personal in nature not against the society at large, who have

resolved their dispute, no fruitful purpose would be served by continuing the proceedings in the instant case.

11. Keeping in view the above-said facts and circumstances, the present petition is allowed and the order dated 25.04.2016 (Annexure P-1), passed by Judicial Magistrate Ist Class, Mewat, Nuh is hereby set aside and FIR No.38, dated 01.02.2020 (Annexure P-2), under Section 174-A IPC, 1860, registered at Police Station City Nuh, District Nuh alongwith all consequential proceedings arising therefrom, is hereby quashed qua the petitioner.

12. The present petition stands disposed off accordingly.

15.02.2024

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>