



CRM-M-52205-2023

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-52205-2023

Date of decision: 25.11.2024

Ashok Kumar Sharma

.... Petitioner

Versus

State of Haryana and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Rajinder Kumar Bajaj, Advocate, for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

GURBIR SINGH, J.

1. This is a petition under Section 528 of BNSS, 2023 for quashing of FIR No.1166, dated 24.08.2023, under Section 174-A IPC registered at Police Station City Panipat (Annexure P-1) on the basis of the fact that the main complaint bearing No.NACT/593/2021 under Section 138 of the Negotiable Instruments Act, 1881 (for short, NI Act) has already been dismissed as withdrawn vide order dated 08.08.2024 on the basis of compromise.

2. The brief facts of the case are that the petitioner and respondent No.3-Nipun Goel met each other to perform a commercial transaction and cheque was issued in pursuance of that. When said cheque was presented to the bank and then they engaged in litigation under Section 138 of the NI Act. The petitioner did not appear before the trial Court and vide order dated 01.06.2023, proclamation

proceedings were initiated against him. Vide order dated 16.08.2023, petitioner was declared proclaimed person and the FIR, in question, was registered against him.

2.1 On 11.07.2024, the petitioner/accused settled the matter with the complainant-respondent No.3. Thereafter, the complainant moved an application before the learned Judicial Magistrate Ist Class, Panipat that he did not want to proceed further with the complaint and wanted to withdraw the same. Vide order dated 08.08.2024, the complaint was dismissed as withdrawn.

3. Learned counsel for the petitioner submits that since the complaint itself has been withdrawn in view of amicable settlement between the parties, continuation of proceedings under Section 174-A of IPC is nothing but an abuse of process of law. The petitioner has paid the whole amount to respondent No.3-complainant.

4. Learned State counsel has opposed the present petition and has submitted that the FIR has been correctly registered. The petitioner was having the knowledge of proceedings about the proceedings of the complaint under Section 138 of the Act.

5. Heard.

6. 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.”

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 NI 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 NI 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. Since the main complaint filed under Section 138 of the Negotiable Instruments Act stands 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

174-A IPC registered at Police Station City Panipat and all subsequent proceedings arising therefrom, as well as order dated 16.08.2023 vide which present FIR was ordered to be registered against the petitioner and he was declared proclaimed person, are hereby quashed, however, that would subject to payment of costs of Rs.5,000/- to be deposited by the petitioner, within 10 days from today, with the Poor Patients' Welfare Fund, PGIMER, Chandigarh and receipt thereof be filed in the Registry immediately thereof, which shall be placed on this file.

(GURBIR SINGH)
JUDGE

November 25, 2024
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No