

CRM-M-58337-2023

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2024:PHHC:031916

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-58337-2023

Date of Decision: 05.03.2024

Bhrgunath Prasad

...Petitioner

vs.

State of Haryana and Anr.

...Respondents

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

Present : Mr. Sandeep Punchhi, Advocate
for the petitioner.

Mr. Karan Garg, AAG, Haryana.

Mr. Sudesh Sahi, 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 impugned order dated 26.08.2022 (Annexure P-4) passed by the Court of Judicial Magistrate Ist Class, Sirsa, whereby the petitioner has been declared as a proclaimed person in a complaint case titled as **“Thakar Chemicals Limited Vs. Prasad Beej Bhandar and Anr.”** and also to quash FIR No. 787 dated 15.09.2022, under Section 174-A of IPC, Police Station City Sirsa (Annexure P-5) and all subsequent proceedings arising therefrom.

2. Learned counsel for the petitioner contends that respondent No.2 had filed a complaint under Section 138 of the Negotiable Instruments Act (hereinafter referred to as the “Act”) against the present petitioner. Vide the summoning order dated 01.12.2021, the petitioner was ordered to be summoned

by the Court of Judicial Magistrate Ist Class, Sirsa. Learned counsel for the petitioner further contends that after passing of the summoning order, the summons were sent to the petitioner and the same were never received by the petitioner. Thereafter, the warrants were ordered to be issued against the petitioner, however, again the petitioner was not served. Ultimately, vide order dated 26.08.2022 (Annexure P-4), the petitioner was ordered to be declared as a proclaimed person. Further, on the directions of Judicial Magistrate Ist Class, Sirsa, one FIR No.787 dated 15.09.2022, under Section 174-A of IPC, Police Station City, Sirsa (Annexure P-5) was ordered to be registered against the present petitioner. Learned counsel for the petitioner further contends that the petitioner had no knowledge with regard to the pendency of the case at any point of time nor he was served either with the summons or with the bailable warrants. On coming to know about the impugned order and registration of the FIR, the petitioner immediately contacted the respondent No.2/ complainant and compromised the matter with him. Consequently, the complaint was ordered to be withdrawn from the Court of Judicial Magistrate Ist Class, Sirsa on 26.11.2022 (Annexure P-9). Learned counsel for the petitioner further contends that since the complaint under Section 138 of the “Act” has already been withdrawn by the complainant, the impugned order (Annexure P-4) and the FIR (Annexure P-5) would be an abuse of process of the Court. Learned counsel further contends that the very purpose of impugned order (Annexure P-4) was to procure the presence of the petitioner and since the main matter already stands compromised between the parties, the proceedings arising out of impugned order (Annexure P-4) and the FIR (Annexure P-5) are liable to be

quashed by this Court.

3. Reply has been filed on behalf of respondent No.2 and the same is taken on record. Learned counsel appearing on behalf of respondent No.2 submits that the matter has been compromised between the parties and he has no objection, in case the present petition is ordered to be allowed by this Court.

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. 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.

6. 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.”

7. In the present case also, the main case has already been withdrawn by the complainant. Consequently, the continuation of the proceedings arising from the impugned order dated 26.08.2022 (Annexure P-4) and FIR No. 787 dated 15.09.2022, under Section 174-A of IPC, Police Station City Sirsa (Annexure P-5) 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”.

8. In view of the above, the present petition is allowed and impugned order dated 26.08.2022 (Annexure P-4) and the FIR No. 787 dated 15.09.2022 under Section 174-A IPC, registered at Police Station City, Sirsa (Annexure P-5) alongwith all subsequent proceedings arising therefrom are hereby ordered to be quashed.

05.03.2024

hitesh

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned :
Whether reportable

Yes/No
: Yes/No