

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM M-57427 of 2023
Date of Decision: 20.01.2024

Gopal Krishan ...Petitioner
Vs.
State of Haryana and another ...Respondents

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

Present : Mr. Wazir Singh, Advocate, for the petitioner.
Mr. Rajinder Kumar Banku, DAG, Haryana.
Mr. Shivam Sharma, Advocate, for respondent No. 2.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 482 Cr.P.C., with a prayer to quash the order dated 15.01.2018 (Annexure P-3) passed by the Court of Judicial Magistrate 1st Class, Panipat, whereby, the present petitioner has been declared as a proclaimed offender in a complaint case No. 409/2017 dated 18.02.2017 titled as “**M/s Krishna Textiles Vs. M/s Shubham Textiles**” and the FIR No. 87 dated 20.01.2018 under Section 174-A of IPC Police Station Panipat City, District Panipat and all subsequent proceedings arising therefrom.
2. Learned counsel for the petitioner submits that a criminal complaint titled as “**M/s Krishna Textiles Vs. M/s Shubham**

Textiles” (Annexure P-1) was filed against the petitioner and one more accused on the ground that a cheque bearing No. 422996 dated 29.12.2016 for a sum of Rs. 1 lac drawn on Vijaya Bank, G.T. Road, Panipat was allegedly issued by the petitioner for discharge of his legal liability and on presentation by respondent No. 2, the said cheque stood dishonoured. Consequently, the complaint (Annexure P-1) was filed against the present petitioner. Learned counsel further contends that the petitioner was never served in the complaint (Annexure P-1) and had no knowledge with regard to the pendency of the present case. Consequently, without following the due process of law and by completely overlooking the provisions of Section 482 Cr.P.C., vide order dated 15.01.2018 (Annexure P-3), passed by the Court of Judicial Magistrate 1st Class, Panipat, the petitioner was ordered to be declared as proclaimed person and the Court had ordered for registration of the FIR under Section 174-A IPC against the petitioner. Consequent to the said order, one FIR No. 87 dated 20.01.2018 under Section 174-A IPC, Police Station Panipat City, District Panipat, was ordered to be registered against the present petitioner. Learned counsel further contends that the petitioner came to know about the pendency of the complaint (Annexure P-1) against him after several years and on coming to know about the pendency of the complaint, he immediately, compromised the matter with respondent No. 2. The respondent No.2/complainant appeared before the Judicial Magistrate 1st Class, Panipat and stated that he did

not want to proceed further with the complaint and the same be withdrawn. Consequently, on 16.11.2022, vide order annexure P-6, the Judicial Magistrate 1st Class, Panipat, permitted the respondent No. 2 to withdraw the complaint. Learned counsel for the petitioner submits that since the complaint (Annexure P-1) already stood withdrawn, the continuation of the proceedings in pursuance to the FIR No. 87 dated 20.01.2018 under Section 174-A IPC registered at Police Station Panipat City, District Panipat would be an abuse of process of Court and the same may be ordered to be quashed by this Court.

3. On the other hand, learned State counsel has opposed the submissions made by learned counsel for the petitioner and submits that the petitioner had not appeared before the trial Court and has been rightly declared to be proclaimed person. Still further, Mr. Shivam Sharma, Advocate, appearing on behalf of respondent No. 2 submits that respondent No. 2 has settled all the disputes with the present petitioner and the respondent No. 2 has already withdrawn the criminal complaint (Annexure P-1) filed by him. He further submits that the respondent No. 2 had no objection in case the order (Annexure P-3) passed by the Judicial Magistrate 1st Class, Panipat and the FIR No. 87 dated 20.01.2018 under Section 174-A IPC registered at Police Station Panipat City, District Panipat (Annexure P-4) are ordered to be quashed 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 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 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 15.01.2018 (Annexure P-3) and the FIR No. 87 dated 20.01.2018 under Section 174-A IPC registered at Police Station Panipat City, District Panipat 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 15.01.2018 (Annexure P-3) and FIR No. 87 dated 20.01.2018 under Section 174-A IPC registered at Police Station Panipat City, District Panipat (Annexure P-4) alongwith all subsequent proceedings arising therefrom are hereby ordered to be quashed.

20.01.2024

(N.S.SHEKHAWAT)

amit rana

JUDGE

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