

293

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-57955-2023
Date of decision : 21.02.2024

RAJPAL SHARMAPetitioner

Versus

STATE OF HARYANA AND ANOTHER ..Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Satbir S. Gill, Advocate
for the petitioner.

Mr. R.K. Ambavta, AAG, Haryana.

PANKAJ JAIN, J. (ORAL)

By way of present petition filed under Section 482 Cr.P.C., the petitioner is seeking quashing of FIR No.0205 dated 23.02.2023 registered for the offence punishable under Section 174-A of the IPC, at Police Station Civil Line, Sirsa (Annexure P-3) and all proceedings subsequent thereto.

2. Reply by way of affidavit of Jagat Singh, HPS, Deputy Superintendent of Police (HQ) Sirsa, District Sirsa has been filed on behalf of the respondent-State, today in Court. The same is taken on record.

3. The petitioner herein was initially summoned to face trial in complaint *qua* offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the N.I. Act'). On account of his lapse, he was declared Proclaimed Offender on 15th of February, 2023 which finally culminated into registration of present FIR under Section 174-A IPC.

4. Ld. Counsel for the petitioner submits that so far as the principal proceedings initiated against the petitioner for offence punishable under Section 138 of the N.I. Act are concerned, the same stand settled. He relies upon order dated 6th of March, 2023 passed by JMIC, Sirsa (Annexure P-4) to submit that the complaint stands dismissed as withdrawn. In the aforesaid circumstances, he contends that continuation of the present proceedings under Section 174-A IPC shall amount to an abuse of process of law.

5. In the short reply preferred by the State, the fact w.r.t. withdrawal of the complaint under Section 138 of the NI Act on 6th of March, 2023 is not controverted.

6. Having heard counsel for the parties, in the considered opinion of this Court the question as to whether proceedings under Section 174-A IPC can be allowed to continue after the principal complaint filed under Section 138 of the N.I. Act already stands settled and withdrawn, is no more *res integra* and has been answered by a Co-ordinate Bench of this Court in **CRM-M-43813-2018** titled as “**Baldev Chand Bansal Vs. State of Haryana and another**” vide order dated 29th of Janaury, 2019, which 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.”

xx xxx xxxx

*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.*

xx xxx xxxx

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."

7. Same is the view of another Co-ordinate Bench in the “**Ashok Madaan vs. State of Haryana and another” reported as 2020 (4) RCR (Criminal) 87**, wherein it has been held that:

“No doubt, the learned counsel for the respondent has vehemently argued that the offence under Section 174-A 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.”

8. Keeping in view the facts and circumstances of the present case and in view of the principles settled by this Court, the present petition is allowed. FIR No.0205 dated 23.02.2023 registered for the offence punishable under Section 174-A of the IPC, at Police Station Civil Line, Sirsa (Annexure P-3) along with order dated 15th of February, 2023 declaring the petitioner to be a proclaimed offender and all proceedings subsequent thereto, are hereby quashed *qua* the present petitioner.

February 21, 2024	(Pankaj Jain)
Dpr	Judge
Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No