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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-58535-2023
DECIDED ON: 08.01.2024

MOHAN LAL GURJAR

.....PETITIONER

VERSUS

STATE OF HARYANA AND ANR.

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Aman Godara, Advocate
for the petitioner.

Mr. B.S. Virk, Sr. DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Section 482 Cr.P.C. has been invoked for quashing of order dated 16.01.2023 (Annexure P-2) passed by Judicial Magistrate Ist Class, Hisar in Complaint Case No. NACT-2025-2020, filed under Section 138 of the Negotiable Instruments Act, 1881, titled as *“The Kuber Co-op (N.A.) Thrift and Credit Society Ltd. Versus Mohal Lal Gurjar”*, whereby, the petitioner has been declared as proclaimed person and FIR No.227, dated 05.04.2023, under Section 174-A IPC, registered at Police Station HMT Hisar, District Hisar along with all the subsequent proceedings arising therefrom.

2. Learned counsel for the petitioner has submitted that in the present case, a complaint was filed against the petitioner under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter to be referred as “the Act of 1881”) and in the said complaint, the petitioner was declared as

proclaimed person vide order dated 16.01.2023 (Annexure P-2). Further in pursuance to the said order, FIR No.227, dated 05.04.2023, under Section 174-A IPC, registered at Police Station HMT Hisar, District Hisar was registered.

3. Learned counsel for the petitioner has further submitted that a compromise has been effected between the parties, which is annexed with the present petition as Annexure P-4 and the main complaint pending before the Court below has been withdrawn on 12.07.2023. It is submitted that no useful purpose would be served by prosecuting the petitioner in the instant FIR once the dispute is being settled by the petitioner and continuance of the instant proceedings would only subject the petitioner to unwarranted and undesirable harassment of no intentional lapse.

4. Learned counsel for the petitioner has placed reliance upon the orders dated 20.07.2022 and 24.08.2022 respectively, passed by Co-ordinate 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”***, 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.

5. He also placed reliance 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”***.

6. Further, 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”***, 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. 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 agrued 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.

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. Considering the aforesaid judgments and the observations made hereinabove, this Court is of the considered view that the pendency of such proceedings would render the proceedings absolutely useless as the petitioner is not going to be convicted and continuation of the same would only be a waste of time for the Courts below but will be patent abuse of process of law.

9. Hence, FIR No.227, dated 05.04.2023 (Annexure P-3), under Section 174-A IPC, registered at Police Station HMT Hisar, District Hisar and the order dated 16.01.2023 (Annexure P-2), vide which the present petitioner has been declared proclaimed person, are hereby quashed with all the subsequent proceedings arising therefrom.

10. The present petition is, therefore, allowed.

(SANDEEP MOUDGIL)
JUDGE

08.01.2024
Poonam Negi

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