

275 (2 cases)

2024:PHHC:040350

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-1898-2023 (O&M) and
CRM-M-58940-2023
DECIDED ON: 20.03.2024

KULDEEP SINGH

.....PETITIONER

VERSUS

STATE OF HARYANA AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Simranjeet Singh, Advocate
for the petitioner(s).

Mr. Gurbir Singh Dhillon, AAG Haryana.

SANDEEP MOUDGIL, J (ORAL)

CRM-3988-2023

This is an application under Section 482 Cr.P.C., for placing on record a copy of order dated 07.12.2022 passed by Judicial Magistrate 1st Class, Tohana vide which the complaint stands dismissed as withdrawn in view of the compromise effected between the parties as well as statement of the complainant dated 07.12.2022 as Annexures P-7 and P-8 respectively.

Application is allowed as prayed for.

Annexures P-7 & P-8 are taken on record with just exceptions.

CRM-M-1898-2023 & CRM-M-58940-2023

1. Prayer in CRM-M-1898-2023 is for quashing of impugned order dated 06.04.2022 (Annexure P-3) along-with order dated 11.11.2022 (Annexure P-4)

whereby, the petitioner was declared proclaimed person in a complaint i.e. NACT/166/2017 dated 06.04.2017 and a direction was issued to SHO concerned, to initiate proceedings under Section 174-A IPC.

2. Prayer in CRM-M-58940-2023 is for quashing of FIR No.292 dated 19.12.2022, under Section 174-A of IPC, registered at Police Station Sadar Tohana, District Fatehabad.

3. Learned counsel for the petitioner states that the main complaint NACT/166/2017 dated 06.04.2017, under Section 138 of Negotiable Instruments Act, stands withdrawn by the complainant, in view of the compromise effected between the parties vide order dated 07.12.2022 (Annexure P-7) passed by Judicial Magistrate 1st Class, Tohana.

4. Learned counsel for the petitioner has sought quashing of the aforesaid orders as well as the FIR on account of the fact that the petitioner could not appear before the trial Court, as he had noted the date as 06.10.2022 instead of 06.04.2022 on which, the trial Court had cancelled his bail /surety bonds and forfeited the same to the State and issued non-bailable warrants against him.

5. He further contends that on 11.11.2022, the proceedings in complaint case No. NACT/166/2017 were fixed for presence of the present petitioner, wherein the petitioner remained absent, therefore, learned trial Court declared the petitioner as Proclaimed Person and sent the copy of the order to SHO of the concerned Police Station for registration of FIR under section 174-A IPC. A copy of the order dated 11.11.2022 passed in NACT/166/2017 is annexed with the present petition as (Annexure P-4). Subsequent thereto, an FIR No.292 dated 19.12.2022, under Section 174-A of IPC, at Police Station Sadar Tohana, District Fatehabad has been registered against the petitioner.

6. Since the main complaint has been dismissed as withdrawn, as is evident from the perusal of the order dated 07.12.2022 (Annexure P-7) passed by Judicial Magistrate 1st Class, Tohana and the offence between the petitioner and complainant is personal in nature not against the society at large, who have resolved their dispute amicably, no fruitful purpose would be served by continuing the proceedings in the instant FIR No.292 dated 19.12.2022, under Section 174-A IPC, registered at Police Station Sadar Tohana, District Fatehabad.

7. This Court is convinced on perusal of the pleadings and the submissions made by learned counsel for the petitioner that the presence of the petitioner was neither deliberate nor intentional, but has occurred due to *bona-fide* errors, which were beyond his control, therefore, the continuation of proceedings in the instant FIR, in pursuance of the order dated 11.11.2022 passed by Judicial Magistrate 1st Class, Tohana would tantamount to nothing else, but an abuse of process of law, which will finally be turned to a futile exercise.

8. In view of the submissions made by learned counsel for the petitioner that the main complaint stands withdrawn by the complainant on 07.12.2022 therefore, continuation of proceedings under Section 174-A of IPC would be abuse of process of law. Also, this principle has been laid down in several dictums of this Court and 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”***, respectively 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.

9. Further reliance can be placed 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**”, respectively in this regard.

10. 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 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 174-A I.P.C. Shall be abuse of the process of court.

Accordingly, the petition is allowed. FIR No.446 dated 21.08.2017, registered under Section 174-A I.P.C. At Police Station Kotwali, District Faridabad, as well as consequential proceedings shall stand quashed.”

11. A perusal of the relevant extract of the above judgment would show that where the main case was dismissed for want of prosecution, it was observed that the continuation of proceedings under Section 174-A of the IPC shall be an abuse of the process of court.

12. Keeping in view the above-said facts and circumstances, both the petitions are allowed. The orders dated 06.04.2022 (Annexure P-3) and 11.11.2022 (Annexure P-4) passed by Judicial Magistrate 1st Class as well as FIR No.292 dated 19.12.2022, under Section 174-A of IPC, registered at Police Station Sadar Tohana,

District Fatehabad alongwith all consequential proceedings arising therefrom, are hereby quashed qua the petitioner.

13. A photocopy of this order be placed on the file of another connected case.

(SANDEEP MOUDGIL)
JUDGE

20.03.2024

Sham

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