



**120 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-55555-2024

Date of Decision:08.11.2024

Lasky Kumar

...Petitioner

Vs.

State of Punjab

...Respondent

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

Present: Mr. Sahil Soi, Advocate
for the petitioner.

Mr. Deepinder Singh Brar, Sr. DAG, Punjab.

N.S.Shekhawat J.

1. The petitioner has filed the present petition under Section 528 of B.N.S.S with a prayer to quash the FIR No.202, dated 17.10.2015, registered under Section 174-A of IPC, Police Station Navi Baradari, District Jalandhar City (Annexure P-1), judgment of conviction and order of sentence dated 26.02.2018 and the impugned order dated 29.09.2015 (Annexure P-3) passed by the Court of Judicial Magistrate Ist Class, Jalandhar and along with all consequential proceedings arising therefrom.

2. Learned counsel for the petitioner contends that the complaint under Section 138 of the Negotiable Instruments Act (hereinafter referred to as the "Act") was filed against the present petitioner. Vide the judgment and order dated 12.03.2018 passed by the Court of Judicial Magistrate Ist Class, Jalandhar, the petitioner was convicted for the offence punishable under Section 138 of the "Act" and was sentenced to undergo RI for a period of two years and to pay the compensation to the tune of Rs.4 lacs along with interest. Even the



appeal filed by the present petitioner was dismissed by the Court of Additional Sessions Judge, Jalandhar on 19.09.2023. The petitioner challenged his conviction by way of criminal appeal No.CRR-2784-2023 titled as “*Lasky Kumar Vs.Ravi Jain and Anr.*”, before this Court and during the pendency of the revision petition, the petitioner had compromised the matter with the respondent/complainant. Consequently, vide order dated 19.12.2023, this Court had acquitted the petitioner of notice of accusation, on the basis of the compromise.

3. Learned counsel for the petitioner further contends that during the course of trial, the petitioner could not be served as per law and vide order dated 29.09.2015 (Annexure P-3), he was declared as a proclaimed offender by the Court of Judicial Magistrate Ist Class, Jalandhar and the FIR was ordered to be registered against him. Ultimately, FIR No.202, dated 17.10.2015 (Annexure P-1) was registered against the present petitioner at Police Station Navi Baradari, District Jalandhar City. The petitioner was tried by the Court of Judicial Magistrate Ist Class, Jalandhar and vide the judgment of conviction and order of sentence dated 26.02.2018, he was convicted and sentenced by the Court. Now, the petitioner has filed an appeal bearing No.CRA-2978-2018 titled as “*Lasky Kumar Vs. State of Punjab*, against the judgment of conviction and the said appeal is pending before the Court of Additional Sessions Judge Jalandhar. Learned counsel further submits that in fact, the proceedings were initiated against the petitioner to secure his presence during the trial. Since, the purpose of initiation of proceedings under Section 174-A of IPC has already been fulfilled, the continuation of the FIR and the subsequent proceedings would not serve any useful purpose. Even otherwise, the petitioner has already



been acquitted of notice of accusation and the present petition is liable 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 petitioner has already been acquitted in the main case. Consequently, the continuation of the proceedings arising out of FIR No.202, dated 17.10.2015, registered under Section 174-A of IPC, Police Station Navi Baradari, District Jalandhar City (Annexure P-1) 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 the FIR No.202, dated 17.10.2015, registered under Section 174-A of IPC, Police Station Navi Baradari, District Jalandhar City (Annexure P-1), judgment of conviction and order of sentence dated 26.02.2018 (Annexure P-2) passed by the Court of Judicial Magistrate Ist Class, Jalandhar and impugned order dated 29.09.2015 (Annexure P-3), alongwith all subsequent proceedings arising therefrom are hereby ordered to be quashed.

08.11.2024
hitesh

(N.S.SHEKHAWAT)
JUDGE

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