

2024:PHHC:056788
**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-55074-2018
DECIDED ON: 25.04.2024**

VIJAY KUMAR AND ANOTHER	PETITIONERS
VERSUS	
STATE OF PUNJAB AND ANOTHER	RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. G.S. Brar, Advocate for the petitioners.
Mr. J.S. Rattu, DAG, Punjab

SANDEEP MOUDGIL, J (ORAL)

1. This is a petition under Section 482 of Cr.P.C., seeking quashing of FIR No.178 dated 19.12.2017, registered at Police Station Division No.6, District Jalandhar under Section 174-A of IPC (Annexure P-9) along with all consequential proceedings arising therefrom.
2. Learned counsel for the petitioners submits that the present FIR came to be registered in pursuance of the criminal complaint bearing No. NACT/1783/15 dated 13.07.2015, filed against petitioner No.1 under section 138 of Negotiable Instrument Act wherein cheque no. 212595 dated 28.02.2015 for a sum of Rs. 80,000/- issued by petitioner No.1 got dishonored.
3. Learned counsel for the petitioners submits that in another complaint bearing No. 371/15 dated 09.02.2015, filed against petitioner No.2 under Section 138 of Negotiable Instrument Act wherein cheque no. 000006 dated 30.11.2014 for a sum of Rs. 80,000/- issued by petitioner No.2 got dishonored. He also submits that the petitioners were neither served properly nor refused to receive summons and as such the petitioners

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were totally unaware about the present complaint and thus due to their non appearance in the said complaints they have been declared proclaimed persons vide orders dated 25.04.2016 and 23.02.2016 respectively(Annexures P3 and P4).

4. He further states that petitioner No.2 has also filed separate petition bearing CRM-M-55020-2018 before this Court, seeking to quash the order dated 23.02.2016 passed by learned JMIC, Jalandhar, whereby he was declared proclaimed offender, in CrI. Complaint No. 371/2015 dated 9.2.2015 registered under Section 138 NI Act.

5. Heard, learned counsel for the parties.

6. In view of the submissions made by learned counsel for the petitioners that the main complaint stands withdrawn by the complainant on 16.11.2023, copy whereof has been produced by learned counsel for the petitioners today in the Court and the same is taken on record,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.

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7. 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.

8. 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 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.”

9. 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.

10. Since the main complaint has been dismissed as withdrawn, as is evident from the perusal of aforesaid order dated 16.11.2023 passed by

Judicial Magistrate 1st Class-13, and the offence between the petitioners and

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complainant is personal in nature not against the society at large, who have resolved their dispute, no fruitful purpose would be served by continuing the proceedings in the instant case.

11. Keeping in view the above-said facts and circumstances, the present petition is allowed and FIR No.178 dated 19.12.2017, registered at Police Station Division No.6, District Jalandhar under Section 174-A of IPC (Annexure P-9) alongwith orders dated 25.04.2016 and 23.02.2016 respectively (Annexures P3 and P4) and all consequential proceedings arising therefrom, are hereby quashed qua the petitioners.

25.04.2024

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(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned *Yes*

Whether reportable *No*