



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

**CRM-M-57982-2024**

**Date of Decision: 21.11.2024**

Parmod Kumar

...Petitioner

Vs.

State of Haryana and Anr.

...Respondents

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

Present: Mr. Sukesh Kumar Jindal, Advocate  
for the petitioner.

Ms. Sheenu Sura, Deputy Advocate General, Haryana.

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**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.38, dated 13.01.2019, under Section 174-A of IPC, registered at Police Station Old Industrial, Panipat (Annexure P-4) order dated 26.09.2018 (Annexure P-1) and the impugned order dated 22.11.2018 (Annexure P-3), passed by the Court of Judicial Magistrate Ist Class, Panipat, whereby the petitioner was declared as a proclaimed person in a criminal complaint bearing case No.NACT-1154-2017 titled as "*Bishamber Singh Vs. Parmod Kumar*" under Section 138 of the Negotiable instruments Act (hereinafter referred to as the "Act") and all other subsequent proceedings arising out therefrom.

2. Learned counsel for the petitioner contends that the respondent No.2/complainant had filed a complaint under Section 138 of the "Act" against the petitioner and after preliminary evidence, vide order dated 08.03.2018, the petitioner was summoned as an accused by the Trial Court. After the



summoning, summons/warrants were repeatedly issued against the petitioner, but the petitioner was not served. Ultimately, it was directed that the petitioner was intentionally absconding and his presence could not be procured through ordinary process. Consequently, a written proclamation under Section 82 Cr.P.C., be issued against him. After the issuance of proclamation against the petitioner, vide the impugned order dated 22.11.2018 (Annexure P-3), the petitioner was declared as a proclaimed person. In compliance of the order dated 22.11.2018 (Annexure P-3), one FIR No.38, dated 13.01.2019, under Section 174-A of IPC, Police Station Old Industrial, Panipat (Annexure P-4) was ordered to be registered against the petitioner. Learned counsel for the petitioner further contends that the petitioner was never served in this case and has been declared as a proclaimed person. He further contends that the very purpose of the impugned FIR was to procure the presence of the petitioner and since the main matter already stood compromise between the parties, the proceedings arising out of the impugned order dated 22.11.2018 (Annexure P-3) and the FIR (Annexure P-4) would be an instrument of misuse of process of law.

3. 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.”*

4. 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.

5. 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.”*

6. In the present case also, the main case has already been withdrawn by the complainant. Consequently, the continuation of the proceedings arising out of FIR No.38, dated 13.01.2019, under Section 174-A of IPC, Police Station Old Industrial, Panipat (Annexure P-4) 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” .

7. In view of the above, the present petition is allowed and FIR No.38, dated 13.01.2019, under Section 174-A of IPC, Police Station Old Industrial, Panipat (Annexure P-4), order dated 26.09.2018 (Annexure P-1) and the impugned order dated 22.11.2018 (Annexure P-3) passed by the Court of Judicial Magistrate Ist Class, Panipat, alongwith all subsequent proceedings arising therefrom are hereby ordered to be quashed.

21.11.2024  
hitesh

(N.S.SHEKHAWAT)  
JUDGE

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