

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-63524-2023
DECIDED ON: 13.02.2024

MAHESH GUPTAPETITIONER

VERSUS

STATE OF HARYANARESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Piyush Aggarwal, Advocate for the petitioner.

Mr. Gurbir Singh Dhillon, AAG Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. This is a petition under Section 482 of Cr.P.C., for quashing the FIR No.583 dated 22.11.2018, registered at Police Station Kotwali, District Faridabad under Section 174-A of IPC (Annexure P-2) alongwith all consequential proceedings arising therefrom.
2. Learned counsel for the petitioner submits that in 2017, M/s Ganpati Agencies filed a complaint case against M/s Vijay Vergiya Enterprises and the present petitioner under Sections 138 and 142 of the N.I. Act, claiming that the petitioner had taken a loan from the complainant and issued a cheque for Rs. 60,000/-in lieu of the repayment." Since the aforementioned check was returned, the complainant filed a complaint under N.I. Act sections 138 and 142 with complaint case number NACT/1793/2017.
3. He further contends that on 08.10.2018, the proceedings under case No. NACT/1793/2017 were fixed for presence of the present petitioner, wherein the petitioner remained absent, therefore, the Id. JMIC, Faridabad 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 08.10.2018 passed in NACT/1793/2017 is annexed as Annexure P-

4. He states that the main complaint under Section 138 of Negotiable Instruments Act involving cheque for a sum of Rs.60,000/- stands withdrawn by the complainant, in view of the compromise affected between the parties vide order dated 22.04.2019 (Annexure P-3) passed by Judicial Magistrate 1st Class stating that the complainant has received Rs.60,000/- and nothing stands due against the petitioner.

5. Heard, learned counsel for the parties.

6. In view of the submissions made by learned counsel for the petitioner that the main complaint stands withdrawn by the complainant on 22.04.2019 therefore, continuation of proceedings under Section 174-A of IPC would be abuse of process of law.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.

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 passed by Judicial Magistrate 1st Class, Faridabad and the offence between the petitioner and 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 FIR No.583 dated 22.11.2018, registered at Police Station Kotwali, District Faridabad under Section 174-A of IPC (Annexure P-2).

8. Keeping in view the above-said facts and circumstances, the present petition is allowed and FIR No.583 dated 22.11.2018, registered at Police Station Kotwali, District Faridabad under Section 174-A of IPC (Annexure P-2) alongwith all consequential proceedings arising therefrom, are hereby quashed qua the petitioner.

13.02.2024

Meenu

(SANDEEP MOUDGIL)
JUDGE

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