

CRM-M-64826-2023

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2024:PHHC:058604

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-64826-2023

Date of Decision:29.04.2024

Parminderjeet Singh

...Petitioner

Vs.

State of Punjab and Anr.

...Respondents

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

Present: Mr. A.S Khosa, Advocate
for the petitioner.

Mr. Deepender Singh, Addl. A.G, Punjab.

Mr. Harpal, Advocate for
Mr. Sukhpal Singh, Advocate
for respondent No.2.

1. The petitioner has filed the present petition under Section 482 Cr. P.C with a prayer to quash the impugned order dated 01.07.2023 (Annexure P-2) passed by the Court of Additional Chief Judicial Magistrate, Pathankot, whereby the petitioner has been declared as a proclaimed person in a complaint case No. NACT-541-2020, titled as "Ravi Kumar Sharma Vs.Parminderjeet Singh", under Section 138 of the Negotiable Instruments Act (hereinafter referred to as the "Act").

2. Learned counsel for the petitioner contends that the respondent had filed a criminal complaint under Section 138 of the "Act" against the present petitioner. After the preliminary evidence, the petitioner was summoned by the Trial Court to appear as an accused to face the trial. However, the summons were never served on the present petitioner and the petitioner had no knowledge with regard to the pendency of the complaint, pending against him. Thereafter,

the warrants were also issued for the service of the present petitioner, but again the petitioner was never served by following the due process of law. Ultimately, vide the impugned order dated 01.07.2023, the petitioner was ordered to be declared as a proclaimed person by the Trial Court. In fact, after passing of the impugned order, the petitioner came to know about the pendency of the criminal complaint against him and he immediately approached the respondent and entered into a compromise with him. Even a compromise deed dated 29.11.2023 (Annexure P-3) was signed between the parties in the presence of the witnesses and thereafter, the complaint was withdrawn by the respondent from the Trial Court on 09.12.2023 and the Trial Court had passed an order (Annexure P-1) in this regard. Learned counsel for the petitioner contends that since the main case has already been withdrawn, the proceedings out of impugned order (Annexure P-2) would be an abuse of the process of the Court.

3. Learned counsel appearing on behalf of respondent No.2/complainant submits that the main case has already been compromised, consequently, respondent No.2 has no objection, in case the proceedings arising out of impugned order dated 01.07.2023 (Annexure P-2) are ordered to be quashed 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 main case has already been withdrawn by the complainant. Consequently, the continuation of the proceedings arising out of impugned order dated 01.07.2023 (Annexure P-2) 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 impugned order dated 01.07.2023 (Annexure P-2) and all subsequent proceedings arising therefrom are hereby ordered to be quashed.

29.04.2024

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Whether speaking/reasoned
Whether reportable

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Yes/No
Yes/No

(N.S.SHEKHAWAT)
JUDGE