

2024:PHHC:159717



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

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**CRM M-59654 of 2024
Date of Decision: 29.11.2024**

Raj Kumar

...Petitioner

Vs.

State of Punjab and another

...Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Angad Parmar, Advocate, for the petitioner.
(through V.C.)

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 528 of the Bhartiya Nagarik Suraksha Sanhita, 2023 with a prayer to quash the FIR No. 192 dated 14.08.2022 under Section 174-A IPC registered at Police Station Sultanpur Lodhi, District Kapurthala (Annexure P-1) and all subsequent proceedings arising therefrom.

2. Learned counsel for the petitioner contends that Satinderpal Singh respondent No. 2 had filed a complaint under Section 138 of the Negotiable Instruments Act 1881 (hereinafter to be referred as '**the Act**') against the petitioner. After the issuance of summons/warrants, the petitioner was never served and was ordered to be declared as a proclaimed offender vide order dated 10.05.2022. Learned counsel for the petitioner further contends that the petitioner was never served in the complaint and vide order dated 10.05.2022,

he was declared as proclaimed person illegally. After the declaration of proclaimed person, FIR No. 192 dated 14.08.2022 under Section 174-A IPC (Annexure P-1) was ordered to be registered at Police Station Sultanpur Lodhi, District Kapurthala against the petitioner. When the petitioner came to know about the registration of the FIR, he immediately contacted respondent No. 2 and compromised the matter with him. Even, the entire payment was made to the respondent No. 2 and ultimately, the complainant made a statement on 26.07.2024 that he did not want to proceed with the complaint any more and he would withdraw the criminal complaint. Consequently, vide order dated 14.09.2024, the complaint was ordered to be dismissed as withdrawn by the trial Court. Learned counsel for the petitioner contends that the matter has been amicably resolved between the parties and the complaint under Section 138 of the Act has already been withdrawn by respondent No. 2. He further contends that the very purpose of the impugned FIR was to procure the presence of the petitioner and since the main case has already been compromised between the parties, the proceedings arising out of the FIR No. 192 dated 14.08.2022 under Section 174-A IPC registered at Police Station Sultanpur Lodhi, District Kapurthala, (Annexure P-1) are liable to be quashed by this Court.

3. Notice of motion.

4. On the asking of Court, Mr. Deepinder Singh Brar, Sr. DAG, Punjab accepts notice on behalf of respondent-State

5. Ms. Mehak Bedi, Advocate has put in appearance on behalf of respondent No. 2 by filing her power of attorney, which is taken on record.

6. Learned State counsel as well as learned counsel for the complainant could not dispute the factual submissions made by learned counsel for the petitioner.

7. 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.”

8. 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.

9. 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 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.”

10. In the present case also, the main case has already been withdrawn by the complainant. Consequently, the continuation of the order dated 10.05.2022 and the proceedings arising out of impugned FIR No. 192 dated 14.08.2022 under Section 174-A IPC registered at Police Station Sultanpur Lodhi, District Kapurthala (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”.

11. In view of the above, the present petition is allowed and the order dated 10.05.2022 and the proceedings arising out of impugned FIR No. 192 dated 14.08.2022 under Section 174-A IPC registered at Police Station Sultanpur Lodhi, District Kapurthala (Annexure P-1) alongwith all subsequent proceedings arising therefrom are hereby ordered to be quashed.

29.11.2024

(N.S.SHEKHAWAT)

amit rana

JUDGE

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