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

CRM-M-62442-2024

Date of decision : 19.12.2024

Rajbir**.....Petitioner****versus****State of Haryana****.....Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Niraj Sinhmar, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed praying for quashing of FIR No.237 dated 31.07.2021, under Section 174-A of Indian Penal Code, registered at Police Station Uchana, as well as order dated 06.12.2021 (Annexure P-2) passed by the learned Judicial Magistrate Ist Class, Narwana whereby the charge under Section 174-A IPC has been framed against the petitioner is against the facts law and principal of natural justice. Further prayer has been made for staying the proceedings before the trial Court arising out of the aforementioned impugned FIR.

2. It has been submitted by learned counsel for the petitioner that the petitioner was prosecuted in the complaint filed under Section 138 of the Negotiable Instruments Act. He has submitted that during the pendency of the trial, the petitioner was declared as proclaimed person and the impugned FIR bearing No.237 dated 31.07.2021, under Section 174-A IPC was registered against the petitioner. He has further submitted that thereafter the petitioner and the complainant amicably resolved the issues and the matter under Section 138 NI Act, was compromised before the Lok Adalat. He has submitted that thus on the basis of compromise, the complaint filed was



dismissed as withdrawn vide order dated 23.02.2022. He has submitted that as the main complaint filed by the complainant under Section 138 of the Negotiable Instruments Act was dismissed as withdrawn vide order dated 23.02.2022, the impugned FIR registered under Section 174-A IPC would be totally an abuse of the process of the Court.

3. Notice of motion to official respondent No.1, at this stage.
4. On the asking of the Court, Mr. Tanuj Sharma, A.A.G., Haryana accepts notice on behalf of respondent No.1-State.
5. Learned State counsel on the other hand contends that the petitioner was rightly declared as a proclaimed person and pursuant to which FIR No.237 dated 31.07.2021, under Section 174-A IPC, at Police Station Uchana was registered against the petitioner and the petitioner is liable to be prosecuted in the said case, as he had failed to appear in the Court despite orders.
6. I have heard counsel for the parties and perused the record.
7. It is apparent that the present FIR was registered due to non-appearance of the petitioner in a complaint case filed under Section 138 of the Negotiable Instruments Act and he was declared as a proclaimed person in the proceedings under the Negotiable Instruments Act. As the main case i.e. complaint filed under Section 138 of the Negotiable Instruments Act already stands dismissed as withdrawn in view of the settlement between the parties, the continuation of the proceedings under Section 174-A of IPC would not serve any purpose as the root cause of controversy i.e. complaint under Section 138 of the Negotiable Instruments Act already stands dismissed as withdrawn. A coordinate 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.”

8. So, keeping in view the above-said facts and the law settled, continuation of the proceedings under Section 174-A of IPC shall be abuse of the process of the Court. Consequently, the present petition is disposed of and impugned order dated 06.12.2021 passed by learned Judicial Magistrate Ist Class, Narwana whereby the charges under Section 174-A was framed and the impugned FIR No.237, dated 31.07.2021, under Section 174-A of IPC, registered at Police Station Uchana, are hereby quashed.

9. Disposed of.

19.12.2024

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**(RAJESH BHARDWAJ)
JUDGE**

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