



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

CRM-M-62477-2024

Date of Decision:12.12.2024

Bhupinder Singh and Anr.

...Petitioners

Vs.

State of Punjab and Anr.

...Respondents

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

Present: Mr. Karambir Singh Kahlon, Advocate
for the petitioners.

Mr. I.P.S Sabharwal, DAG, Punjab.

1. The petitioners have filed the present petition under Section 482 of Cr. P.C with a prayer to quash FIR No. 352, dated 10.12.2022, registered under Section 174-A of IPC, Police Station Civil Lines, Batala, Police District Batala, District Gurdaspur (Annexure P-4) and all subsequent proceedings arising therefrom.

2. Learned counsel for the petitioners contend that Pritam Singh son of Tara Singh had filed a complaint under Section 138 of the Negotiable Instruments Act (hereinafter referred to as the "Act") against the present petitioners on 25.05.2021. After the preliminary evidence, the petitioners were ordered to be summoned by the Trial Court. However, the petitioners could not be served, during the course of trial. Learned counsel further submits that the Trial Court had issued summons/warrants for the service of the petitioners, which were never served on the petitioners. Ultimately, vide order dated 25.08.2022, the petitioners were declared as a proclaimed persons without



following the mandatory procedure as prescribed under Section 82 of Cr.P.C. After declaring them as proclaimed persons, the concerned Court ordered the registration of the FIR No. 352, dated 10.12.2022, under Section 174-A of IPC, Police Station Civil Lines, Batala, Police District Batala, District Gurdaspur (Annexure P-4) against the petitioners. Learned counsel for the petitioners next contend that when the petitioners came to know about the lodging of the FIR, they approached the complainant/respondent No.2 and paid the entire amount to him. Ultimately, on 06.11.2023, the complainant appeared before the Trial Court and made a statement that the matter has been compromised between the parties and he did not want to proceed with the present complaint. In pursuance of the statement (Annexure P-2) made by respondent No.2/complainant, the complaint was ordered to be withdrawn from the Trial Court on 09.12.2023. Learned counsel further contends that the petitioners were declared as proclaimed persons in the present case only to secure their presence during the course of trial and since the matter has already been compromised between the parties and complaint under Section 138 of the “Act” has already been withdrawn vide order dated 09.12.2023 (Annexure P-3), no purpose will be served by prosecuting the petitioners under Section 174-A of IPC and the FIR as well as the proceedings emanating therefrom are abuse of the process of the Court.

3. On the other hand, learned State counsel submit that the petitioners have intentionally evading the process of law and did not appear before the Trial Court. Learned State counsel further submits that the petitioners have not been able to point out any illegality in the impugned order passed by the Trial Court and the petition deserves to be dismissed by this Court.



4. I have heard the learned counsel for the parties and perused the record carefully.

5. 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:-

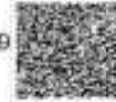
“Prayer in this petition is for quashing of FIR No.64 dated 15.02.2017 filed under Section 174-A of the Indian Penal Code registered at Police Station Sector-5, Panchkula and all other subsequent proceedings arising thereof as well as order dated 24.10.2016 passed by the trial Court vide which a direction 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.”

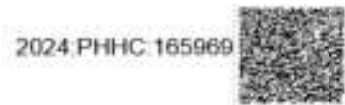


6. A perusal of the above judgment would show that in a similar case where the FIR had been registered under Section 174-A IPC in view of the order passed in proceedings under Section 138 of the Act, while declaring the petitioner therein as a proclaimed offender, a co-ordinate Bench after relying upon 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.

7. 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.”

8. 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. 352, dated 10.12.2022, registered under Section 174-A of IPC, Police Station Civil Lines, Batala, Police District Batala, District Gurdaspur (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”.

9. In view of the above, the present petition is allowed and the FIR No. 352, dated 10.12.2022, registered under Section 174-A of IPC, Police Station Civil Lines, Batala, Police District Batala, District Gurdaspur (Annexure P-4) alongwith all subsequent proceedings arising therefrom is hereby ordered to be quashed.

(N.S.SHEKHAWAT)
JUDGE

12.12.2024
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No