

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

135

CRM-M-62590-2024

DATE OF DECISION: 12.12.2024

AJAYPAL SINGH KOHLI

.....PETITIONER

Versus

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Rajat Dogra, Advocate with
Mr. Iqbaldeep Singh, Advocate for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab

SANDEEP MOUDGIL, J

1. The instant petition has been preferred under section 528 BNSS, 2023 seeking quashing of order dated 29.03.2023 passed by the JMIC, Amritsar, whereby the present petitioner has been declared as a proclaimed person and also, seeks quashing of the subsequent FIR No. 30 dated 03.04.2023 under section 174-A IPC as registered at Police Station Mohkampura, District Police Commissionerate Amritsar keeping in view the complaint case bearing No. 1322/2022 dated 16.05.2022 under section 138 of Negotiable Instruments Act (N.I. Act).

2. Learned counsel for the petitioner submits that the matter between parties stands amicably compromised between the complainant and the petitioner on 27.11.2024 on the same day the complainant appeared before the trial court and suffered statement qua the



compromise effected and the complaint filed by the complainant was withdrawn vide order dated 27.11.2024 passed by JMIC, Amritsar (Annexure P-3)

3. Further, he relies upon the judgment of a co-ordinate Bench of this Court passed in CRM-M-43813-2018 titled as "**Baldev Chand Bansal v. State of Haryana and another**", decided on 29.01.2019 wherein it has been 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.

*Learned counsel for the petitioner has relied upon the decisions rendered by this Court in "**Vikas Sharma v. Gurpreet Singh Kohli and another 2017, (3) L.A.R.584, Microqual Techno Limited and others v. State of Haryana and another, 2015 (32) RCR (Criminal) 790 and "Rajneesh Khanna v. 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an identical circumstance, this Court has held that since the main petition filed under Section 138 of the Act stands withdrawn in view of an amicable settlement between the parties, therefore, continuation of proceedings under Section 174A of IPC shall be nothing but an abuse of the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.*

xxx xxx xxx

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.”

4. 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.

5. Another co-ordinate Bench of this Court in a case titled as "**Ashok Madan v. 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. 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."

6. 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 IPC shall be an abuse of the process of court. A similar view has been expressed by this Court in **"Anil Kumar v. Jitender Kumar and another, CRM-M- 5878-2022 decided on 06.04.2022"**, **"Anil Kumar v. Jitender Kumar and another, CRM-M-5755-2022 decided on 06.04.2022"** and **"Varinder Kumar @ Virender Kumar v. State of Haryana and another, CRM-M-42551- 2021 decided on 19.04.2022"**.

7. It is pertinent to note that both the parties executed a compromise on 27.11.2024. Whereafter, the petitioner settled the claim of the complainant and no due remains towards the accused.

8. In light of the above, this court is of the view that the present petition deserves to be allowed and the order dated 29.03.2023 and all subsequent processing deserve to be quashed keeping in consideration the view of the co-ordinate bench of this court.



9. Therefore, impunged order dated 29.03.2023 passed by the JMIC, Amritsar, whereby the present petitioner has been declared as a proclaimed person and the subsequent FIR No. 30 dated 03.04.2023 under section 174-A IPC as registered at Police Station Mohkampura, District Police Commissionerate Amritsar is hereby quashed.

10. Petition is allowed in aforesaid terms.

12.12.2024

meenu/anuradha

(Sandeep Moudgil)
Judge

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No