



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

CRM-M-935-2025

Date of Decision:13.01.2025

Akshay Kumar

...Petitioner

Vs.

State of Haryana and Anr.

...Respondent

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

Present: Mr. Ashok Kumar Khubbar, Advocate
for the petitioner.

Ms. Sheenu Sura, Deputy Advocate General, Haryana.

1. The petitioner has filed the present petition under Section 528 of B.N.S.S with a prayer to quash FIR No. 457, dated 02.07.2022, registered under Section 174-A of IPC, Police Station Sector 32-33, District Karnal, Haryana (Annexure P-3) and all subsequent proceedings arising therefrom.

2. Learned counsel for the petitioner contends that the respondent No.2 had filed a criminal complaint (Annexure P-1) under Section 138 of the Negotiable Instruments Act (hereinafter referred to as the "Act") before the Court of JMIC, Karnal. He further contends that after the preliminary evidence, the petitioner was ordered to be summoned, however, the summons/warrants were never served on him. He further contends that ultimately, the petitioner was wrongly declared as a proclaimed person without following the mandatory procedure as prescribed under Section 82 of Cr.P.C and the SHO of the police station was directed to register the FIR against the present petitioner. In compliance of the impugned order (Annexure P-2), passed by the Court of



Judicial Magistrate Ist Class, Karnal, one FIR No. 457, dated 02.07.2022, under Section 174-A of IPC, Police Station Sector 32-33, District Karnal was ordered to be registered against the petitioner. On coming to know about the registration of the FIR, the petitioner approached the complainant bank and had compromised the matter with the complainant. Consequently, on 17.09.2022, the officials of complainant bank appeared before the Trial Court and the main complaint (Annexure P-1) under Section 138/142 of the “Act” was withdrawn. He further contends that the main purpose of declaring the petitioner as proclaimed person was to ensure the presence of the petitioner before the Trial Court and now, when the main complaint itself has been withdrawn from the Court, the proceedings arising out of the FIR (Annexure P-3), would be abuse of the process of the Court. Thus, he prays that the impugned orders (Annexures P-2 and P-3) may be ordered to be quashed.

3. On the other hand, learned State counsel submits that the petitioner had intentionally evading the process of law and did not appear before the Trial Court. Learned State counsel further submits that the petitioner has 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.

xxx xxx xxx

*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.*

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.”

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. 457, dated 02.07.2022, registered under Section 174-A of IPC, Police Station Sector 32-33, District Karnal, Haryana (Annexure P-3) 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. 457, dated 02.07.2022, registered under Section 174-A of IPC, Police Station Sector 32-33, District Karnal, Haryana (Annexure P-3) alongwith all subsequent proceedings arising therefrom is hereby ordered to be quashed.

(N.S.SHEKHAWAT)
JUDGE

13.01.2025
hitesh

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