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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-4382-2025
DECIDED ON: 28.01.2025

GAURAV SHARMAPETITIONER

VERSUS

STATE OF HARYANARESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Shivam Joshi, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

1. This is a petition under Section 528 BNSS 2023 for quashing of the order dated 02.07.2024 passed by Sub Judicial Magistrate 1st Class (Annexure P-2) vide which the petitioner has been declared as proclaimed person in a criminal complaint filed under Section 138 of NI Act, 1881, since the matter has been settled between the parties and complaint has been dismissed as withdrawn vide order dated 29.08.2024 (Annexure P-4).
2. Learned counsel for the petitioner states that the main complaint NACT/191/2021, under Section 138 of Negotiable Instruments Act involving cheque No.110171 dated 14.09.2021 for a sum of Rs.3,00,000/-, stands withdrawn by the complainant, in view of the compromise affected between the parties vide order dated 29.08.2024 (Annexure P-4) passed by Sub Judicial Magistrate 1st Class, Indri (Karnal).
3. Notice of motion.

4. Mr. Baljinder Singh Virk, Sr. DAG Haryana accepts notice on behalf of respondent/State.

5. Since the main complaint has been dismissed as withdrawn, as is evident from the perusal of aforesaid order dated 29.08.2024 (Annexure P-4) passed by Sub Judicial Magistrate 1st Class, Indri (Karnal) and the offence between the petitioner and complainant is personal in nature not against the society at large, who have resolved their dispute, no fruitful purpose would be served by continuing the proceedings of order dated 02.07.2024 (Annexure P-2) as well as in the FIR No.563 dated 14.09.2024, registered at Police Station Indri, Karnal, under Section 209 of BNS, 2023 (Annexure P-3).

6. In view of the submissions made by learned counsel for the petitioner that the main complaint stands withdrawn by the complainant on 29.08.2024 therefore, continuation of proceedings under Section 209 of BNS would be abuse of process of law. Also, this principle has been laid down in several dictums of this Court and reliance can be placed upon the orders dated 20.07.2022 and 24.08.2022 respectively, passed by a coordinate Bench of this Court in CRM-M-46062-2017, titled as ***“Jatin Dhawan and another versus State of Haryana and another”*** and CRM-M-12534-2022, titled as ***“Krishan Kumar versus State of Haryana and another”***, respectively wherein it has been held that once the main case is dismissed as withdrawn, the continuation of proceedings under Section 174-A IPC shall be an abuse of process of law.

7. Further reliance can be placed upon the orders of this Court dated 12.12.2022 and 13.12.2022 passed in CRM-M-55634-2022 titled as ***“Jinder Singh Vs. State of Punjab and another”*** and CRM-M-45051-2022 titled as ***“Hari Singh Meena Vs. State of Haryana”***, respectively in this regard.

8. 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 174-A 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 174-A 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 174-A I.P.C. At Police Station Kotwali, District Faridabad, as well as consequential proceedings shall stand quashed.”

9. 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 209 of the BNS shall be an abuse of the process of court.

10. Since the main complaint has been dismissed as withdrawn, as is evident from the perusal of aforesaid order passed by SDJM, Indri and the offence between the petitioner and complainant is personal in nature not against the society at large, who have resolved their dispute, no fruitful purpose would be served by continuing the proceedings of order dated 02.07.2024 (Annexure P-2) as well as in the FIR No.563 dated 14.09.2024, registered at Police Station Indri, Karnal, under Section 209 of BNS, 2023 (Annexure P-3).

11. Keeping in view the above-said facts and circumstances, the present petition is allowed and the order dated 02.07.2024 (Annexure P-2) as well FIR No.563 dated 14.09.2024, registered at Police Station Indri, Karnal, under Section 209 of BNS, 2023 (Annexure P-3), alongwith all consequential proceedings arising therefrom, are hereby quashed qua the petitioner.

28.01.2025

Meenu

(SANDEEP MOUDGIL)
JUDGE

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