

CRM-M-20860-2024

-1-

2025.PHHC:017394



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

203

CRM-M-20860-2024

Date of decision :05.02.2025

JIGNA TEJAS MEHTA

..... PETITIONER

VERSUS

STATE OF HARYANA AND ANR.

..... RESPONDENTS

CORAM : HON'BLE MR. JUSTICE N. S. SHEKHAWAT

Present :- Mr. Rishab Garg, Advocate
for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

Mr. Vineet Sehgal, Advocate
for respondent No.2

N. S. SHEKHAWAT, J. (ORAL)

1. The petitioner has filed the present petition under Section 482 Cr.P.C. with a prayer to quash the order dated 25.11.2021 (Annexure P-2) passed by the Court of Judicial Magistrate 1st Class, Gurugram in a complaint No. NACT/9932/2017 dated 29.07.2017, whereby the petitioner was declared as proclaimed person. A further prayer has also been made to quash the FIR No.0066 dated 09.01.2022, under Section 174-A IPC, 1860 registered at Police



Station Shivaji Nagar, District Gurugram (Annexure P-3) and all consequential proceedings arising therefrom.

2. Learned counsel for the petitioner contends that the respondent No.2 had filed a criminal complaint under Section 25 of the Payment and Settlements Act against the petitioner with the allegations that the petitioner had issued an intimation bearing MICR No.400036005 dated 23.05.2017 for a sum of Rs.76,135/- for payment to respondent No.2/complainant in discharge of his liability. The said ECS was presented to the banker and received back with the remarks of “70-Customer to refer to the branch.” Resultantly, the petitioner was summoned to face trial for the offence punishable under Section 25 of the Payment and Settlement Systems Act, 2007 vide the summoning order dated 06.09.2017 (Annexure P-1).

3. Learned counsel further contends that after issuance of the summoning order, summons/warrants were issued for the service of the petitioner, however, the same were never served on the petitioner and ultimately vide order dated 25.11.2021 (Annexure P-2), the petitioner was wrongly declared as a proclaimed person. In compliance of the impugned order (Annexure P-2), one FIR No.0066 dated 09.01.2022 under Section 174-A IPC registered at Police Station Shivaji Nagar, District Gurugram (Annexure P-3) was also ordered to be registered against the petitioner.



4. Learned counsel further contends that the main purpose of issuance of proclamation against the petitioner was to procure the presence of the petitioner during trial and now since the main complaint itself has been withdrawn vide order dated 19.11.2022 (Annexure P-4), no purpose will be served with the continuation of the proceedings arising out of FIR No.0066 dated 09.01.2022 under Section 174-A IPC registered at Police Station Shivaji Nagar, District Gurugram (Annexure P-3). Thus, he submits that the impugned order (Annexure P-2), FIR No.0066 (Annexure P-3) and all consequential proceedings arising therefrom are liable to be quashed by this Court.

5. 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.

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

7. 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.”

8. 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.

9. 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.”

10. 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.0066 dated 09.01.2022, under Section 174-A IPC, 1860 registered at Police Station Shivaji Nagar, District Gurugram (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”.**

11. In view of the above, the present petition is allowed and order dated 25.11.2021 (Annexure P-2) passed by the Court of Judicial Magistrate 1st Class, Gurugram in a complaint No. NACT/9932/2017 dated 29.07.2017 and FIR No.0066 dated 09.01.2022, under Section 174-A IPC, 1860 registered at Police Station Shivaji Nagar, District Gurugram (Annexure P-3) alongwith



all subsequent proceedings arising therefrom is hereby ordered to be quashed.

(N. S. SHEKHAWAT)
JUDGE

05.02.2025

vipin

Whether speaking/reasoned :	Yes
Whether Reportable :	No