

2025:PHHC:000815



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

CRM M-50266 of 2023 (O&M)
Date of Decision: 07.01.2025

Sajjan @ Sajjan Kumar ...Petitioner
Versus
State of Haryana and another ... Respondents

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

Present : Mr. Vishal Singh, Advocate, for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

Mr. D.K.Singal, 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 impugned order dated 10.05.2023 (Annexure P-6) passed in Criminal Complaint No. NACT-475 dated 18.02.2021 titled as “**Axis Bank Limited Vs. Sajjan**” (Annexure P-1) by the Judicial Magistrate 1st Class, Karnal, whereby, the petitioner has been declared a proclaimed person. A further prayer has been made to quash the FIR No. 1009 dated 21.06.2023 under Section 174-A IPC, Police Station Karnal, Civil Lines, District Karnal (Annexure P-7) and all subsequent proceedings arising therefrom.

2. Learned counsel for the petitioner contends that respondent No. 2 had filed a complaint (Annexure P-1) under Section

138 of the Negotiable Instruments Act 1881 (hereinafter to be referred as '**the Act**') against the petitioner. Vide order dated 15.03.2021 (Annexure P-2), the petitioner was summoned by the trial Court to face trial. After passing of the summoning order, the trial Court had issuedailable warrants as well as nonailable warrants for the service of the petitioner. However, the summons were never served on the petitioner. Ultimately, the trial Court held that the petitioner could not be served through ordinary process or warrants of arrest and the proclamation was ordered to be issued against the petitioner under Section 82 Cr.P.C. Again, the proclamation was served through the brother of the petitioner and the proclamation was not read openly in the village. From the statement of the serving constable (Annexure P-5), it was apparent that the procedure prescribed under Section 82 Cr.P.C. was not followed by him. Ultimately, vide order dated 10.05.2023 (Annexure P-6), the petitioner was declared as proclaimed person. In compliance of the order (Annexure P-6), one FIR No. 1009 dated 21.06.2023 under Section 174-A IPC, Police Station Karnal, Civil Lines, District Karnal (Annexure P-7) was also ordered to be registered against the petitioner. Learned counsel for the petitioner further contends that the moment petitioner came to know about the pendency of the present complaint, he compromised the matter with the respondent/complainant and ultimately complainant had withdrawn the complaint on 21.12.2023. Since the very purpose of issuance of proclamation against the petitioner was to procure his

presence, no purpose would be served by ordering his prosecution at this state, when the main case, i.e., complaint under Section 138 of the Act has already been compromised between the parties. Thus, the impugned order dated 10.05.2023 (Annexure P-6), FIR No. 1009 dated 21.06.2023 under Section 174-A IPC, Police Station Karnal, Civil Lines, District Karnal (Annexure P-7) and all consequential proceedings arising therefrom are misuse of the process of the Court.

3. On the other hand, Mr. D.K. Singal, Advocate, has appeared on behalf of the respondent No. 2/complainant and filed a short reply, which is taken on record. Learned counsel appearing on behalf of the complainant submits that the complainant has withdrawn the main complaint on 21.12.2023 and he has no objection, in case, the present petition is accepted and the impugned order (Annexure P-6) and FIR (Annexure P-7) are ordered to be quashed.

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

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 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.

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 order dated 10.05.2023 (Annexure P-6) and

FIR No. 1009 dated 21.06.2023 under Section 174-A IPC, Police Station Karnal, Civil Lines, District Karnal (Annexure P-7) 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 order dated 10.05.2023 (Annexure P-6) and FIR No. 1009 dated 21.06.2023 under Section 174-A IPC, Police Station Karnal, Civil Lines, District Karnal (Annexure P-7) alongwith all consequential proceedings arising therefrom are hereby ordered to be quashed.

10. The petition stands allowed.

11. All pending applications, if any, are disposed off, accordingly.

07.01.2025

amit rana

(N.S.SHEKHAWAT)

JUDGE

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