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

CRM-M-57391-2024 (O&M)

Date of Decision:24.01.2025

Rohit and Anr.

...Petitioners

Vs.

State of U.T.Chandigarh and Anr.

...Respondents

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

Present: Mr. Hitesh Verma, Advocate
for the petitioners.

Mr. Saravjit Khurana, Addl. P.P., for
U.T., Chandigarh.

Mr. Aditya Sharma, Advocate
for respondent No.2.

N.S.Shekhawat J.(Oral)

CRM-2168-2025

1. Application is allowed as prayed for, subject to just all exceptions.

2. Annexure R-1 is taken on record.

Main case

1. The petitioners have filed the present petition under Section 482 of Cr. P.C with a prayer to quash the impugned order dated 09.08.2024 (Annexure P-1) passed by the Court of Judicial Magistrate Ist Class, Chandigarh, whereby, the petitioners have been declared as proclaimed persons



and all subsequent proceedings arising therefrom.

2. Learned counsel for the petitioners contend that a complaint titled as “M/s Stellar Data Solutions Pvt. Ltd. Vs. Rohit and Anr.” under Section 138 of the Negotiable Instruments Act (hereinafter referred to as the “Act”) was filed against the present petitioners by respondent No.2/complainant. Thereafter, the preliminary evidence was led and vide order dated 07.07.2022 (Annexure P-4) the petitioners were ordered to be summoned to face trial before the Trial Court. After the issuance of summoning order, summons/warrants were repeatedly issued against the petitioner, but the petitioners were never served. He further contends that the Trial Court had overlooked the provisions of Section 82 of Cr.P.C and vide impugned order dated 09.08.2024 (Annexure P-1) passed by the Court of Judicial Magistrate Ist Class, Chandigarh, the petitioners were declared as proclaimed persons. He further contends that when the petitioners came to know about the issuance of coercive process against them by the Trial Court, they immediately approached respondent No.2/complainant and had compromised the case with him. Consequently, the complainant/respondent No.2 appeared before the Trial Court and the complaint was ordered to be withdrawn on 27.11.2024 vide order dated 27.11.2024 (Annexure R-1). Learned counsel further contends that the petitioners were declared as proclaimed persons in the present case only to secure their presence during the course of trial and since the matter has already been compromised between the parties and complaint under Section 138 of the “Act” has already been withdrawn vide order dated 27.11.2024 (Annexure R-1), the continuation of proceedings in pursuance of order (Annexure P-1) would be an abuse of the process of the Court. Thus, the impugned order dated



09.08.2024 (Annexure P-1) passed by the Court of Judicial Magistrate Ist Class, Chandigarh and all subsequent proceedings emanating therefrom are liable to be quashed by this Court.

3. On the other hand, learned State counsel submit that the petitioners have intentionally evading the process of law and did not appear before the Trial Court. Learned State counsel further submits that the petitioners have 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. On the other hand learned counsel appearing on behalf of the complainant/respondent No.2 submits that he has no objection in case, if the present petition is allowed by this Court, as respondent No.2 has already withdrawn the main complaint from the Trial Court.

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

6. 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.”

7. 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.

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 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.”

9. In the present case also, the main case has already been withdrawn by the complainant. Consequently, the continuation of the proceedings in pursuance of order dated 09.08.2024 (Annexure P-1) would be an abuse of the 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”.

10. In view of the above, the present petition is allowed and the impugned order dated 09.08.2024 (Annexure P-1) passed by the Court of



Judicial Magistrate Ist Class, Chandigarh alongwith all subsequent proceedings arising therefrom is hereby ordered to be quashed.

24.01.2025
hitesh

(N.S.SHEKHAWAT)
JUDGE

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