



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM M-59826 of 2024
Date of Decision: 27.01.2025

Ajay Maini ...Petitioner
Vs.
State of Haryana and another ...Respondents

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

Present : Mr. Sahil Sabharwal, Advocate, for
Mr. Nitin Kant Setia, Advocate for the petitioner.

Mr. Rajinder Kumar Banku, DAG, Haryana.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 with a prayer to quash the order dated 15.07.2019 (Annexure P-9) passed by the Court of Shri Jitender Kumar, Judicial Magistrate 1st Class, Hisar in a complaint NACT No. 1992 of 2017 titled as “**Rawalwasia Ispat Udyog Pvt. Ltd. Vs. Mani Construction etc.**”, whereby, the petitioner was declared as a proclaimed person as well as the FIR No. 110 dated 21.03.2020 under Sections 174-A IPC registered at Police Station Urban Estate, Hisar, Haryana (Annexure P-1) and all subsequent proceedings arising therefrom.

2. Learned counsel for the petitioner contends that a complaint bearing No. 1992 of 2017 titled as **“Rawalwasia Ispat Udyog Pvt. Ltd. Vs. Mani Construction etc.”** under Section 138 of the Negotiable Instruments Act 1881 (hereinafter to be referred as '**the Act**') was filed against the present petitioner with regard to dishonour of a cheque bearing number 225409 dated 16.05.2017 for an amount of Rs. 5,86,045/- drawn on State Bank of Bikaner and Jaipur (now State Bank of India). Learned counsel contends that vide order dated 30.10.2017, the petitioner was ordered to be summoned as an accused by the trial Court. Thereafter, the bailable/non-bailable warrants were issued against the petitioner, however, the same were returned with the report that the petitioner was not found at the given address. Even, on 02.08.2018, a report was received by the trial Court that the petitioner had left his house and the shop and shifted to Delhi. Still without serving the summons/warrants, the petitioner was declared as a proclaimed person vide the impugned order dated 15.07.2019 (Annexure P-9), without following the mandatory provisions of law. Thereafter, in compliance of the impugned order dated 15.07.2019, one FIR No. 110 dated 21.03.2020 under Section 174-A IPC Police Station Urban Estate, Hisar (Annexure P-1) was ordered to be registered against the petitioner. Learned counsel further contends that when the petitioner came to know about the registration of the FIR, he immediately approached the respondent and a settlement was arrived at between the parties and total outstanding amount was paid by the

petitioner to the respondent No. 2. Consequently, vide order dated 07.04.2022 (Annexure P-11), the main complaint under Section 138 of the Act was withdrawn by the respondent/complainant. Learned counsel contends that the main purpose of issuance of summons/warrants and to declare the petitioner as proclaimed person, was to procure the presence of the petitioner before the trial Court. Since, when the main complaint has been withdrawn by the respondent No. 2/complainant from the trial Court, no purpose will be served by keeping the proceedings/investigation arising out of the FIR No. 110 dated 21.03.2020 under Section 174-A IPC, Police Station Urban Estate, Hisar, Haryana, alive. He further contends that since the main complaint has already been withdrawn by respondent No. 2, the proceedings arising out of the impugned order dated 15.07.2019 (Annexure P-9) and FIR No. 110 dated 21.03.2020 under Section 174-A IPC, Police Station Urban Estate, Hisar, Haryana (Annexure P-1) are abuse of the process of the Court.

3. 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.”

4. 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.

5. 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.”

6. In the present case also, the main case has already been withdrawn by the complainant. Consequently, the continuation of the proceedings arising out order dated 15.07.2019 (Annexure P-9) and

FIR No. 110 dated 21.03.2020 under Section 174-A, Police Station Urban Estate, Hisar, Haryana (Annexure P-1) 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”.

7. In view of the above, the present petition is allowed. The impugned order dated 15.07.2019 (Annexure P-9) and FIR No. 110 dated 21.03.2020 under Section 174-A, Police Station Urban Estate, Hisar, Haryana, (Annexure P-1) alongwith all subsequent proceedings arising therefrom are hereby ordered to be quashed qua the petitioner.

27.01.2025

(N.S.SHEKHAWAT)

amit rana

JUDGE

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