



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

CRM-M-2363-2025
Date of Decision:17.01.2025

Jaspal Singh Arora

...Petitioner

Vs.

State of Haryana and Anr.

...Respondent

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

Present: Mr. Karan Kaushal, Advocate
 for the petitioner(through VC).

Mr. Rajinder Kumar Banku, Deputy Advocate General, Haryana.

1. The petitioner has filed the present petition under Section 482 of Cr. P.C with a prayer to quash FIR No. 17, dated 13.01.2024, registered under Section 174-A of IPC, Police Station Faridabad Kotwali, Haryana (Annexure P-1) as well as the order dated 21.10.2023 (Annexure P-2) passed by the Court of Judicial Magistrate Ist Class, Faridabad in a criminal complaint No.6557/2019, whereby, the petitioner was declared as proclaimed person and all subsequent proceedings arising therefrom.

2. Learned counsel for the petitioner contends that a criminal complaint No.6557/2019, titled as "*Haryana Ishpat Uduog Vs. Raxmech Industries etc*", under Section 138 of the Negotiable Instruments Act (hereinafter referred to as the "Act") was filed against the present petitioner. After recording of the preliminary evidence, the petitioner was ordered to be summoned in the present case. Even, the summons/warrants issued by the Trial Court were never served on the present petitioner. Still, without following the



mandatory provisions of Section 82 Cr.P.C., vide order dated 21.10.2023 (Annexure P-2), the petitioner was declared as proclaimed person and it was also ordered that the proceedings under Section 174-A of IPC may also be initiated against the petitioner. Learned counsel further contends that on coming to know about the registration of the criminal case, the petitioner settled the dispute and also signed the Memo of Understanding (MOU). As per the MOU, the petitioner had cleared the entire outstanding amount. Ultimately, the complainant/respondent appeared before the Trial Court and made a statement that he did not want to continue with the present FIR and he may be permitted to withdraw the same. Vide order dated 21.11.2024 (Annexure P-5), the respondent/complainant was permitted to withdraw the main complaint under Section 138 of the “Act”. Learned counsel further submits that the main purpose of declaring the present petitioner as proclaimed person was to procure his presence before the Trial Court and since the main matter has already been compromised between the parties, the proceedings arising out of FIR No. 17, dated 13.01.2024, registered under Section 174-A of IPC, Police Station Faridabad Kotwali, Haryana (Annexure P-1) and the impugned order dated 21.10.2023 (Annexure P-2) would be an abuse of the process of the Court and the same are liable to be quashed by this Court.

3. 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.



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

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 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.”

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 FIR No. 17, dated 13.01.2024, registered under Section 174-A of IPC, Police Station Faridabad Kotwali, 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” .

9. In view of the above, the present petition is allowed and impugned order dated 21.10.2023 (Annexure P-2) and FIR No. 17, dated 13.01.2024, registered under Section 174-A of IPC, Police Station Faridabad Kotwali, Haryana (Annexure P-1) alongwith all subsequent proceedings arising therefrom are hereby ordered to be quashed.

17.01.2025
hitesh

(N.S.SHEKHAWAT)
JUDGE

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