

2025:PHHC:068642



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

**CRM M-27532 of 2025 (O&M)
Date of Decision: 20.05.2025**

Shivani Aggarwal @ Shivani Agarwal ...Petitioner

Vs.

State of Haryana and another ...Respondents

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

Present : Mr. Keshav Pratap Singh, Advocate, for the petitioner.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 528 of the B.N.S.S., with a prayer to quash the order dated 10.08.2021 (Annexure P-3), whereby, the present petitioner has been declared as a proclaimed person in a complaint case No. NACT-390-2019 dated 14.01.2019 titled as **“Chanda Paper Industry Vs. Nikhil Footwears etc.”** besides FIR No. 709 dated 30.12.2021 under Section 174-A of IPC, registered at Police Station Sector 58, Faridabad (Annexure P-4) and all subsequent proceedings arising therefrom.

2. Learned counsel for the petitioner contends that the respondent No. 2 had filed a complaint against the petitioner bearing

No. NACT-390-2019 dated 14.01.2019 titled as “ **Chanda Paper Industry Vs. Nikhil Footwears etc.**” under Section 138 of the Negotiable Instruments Act 1881. He further contends that from the various zimini orders passed by the trial Court, it is established that the summons/warrants were never served on the petitioner. He further contends that the petitioner was not aware of the pendency of the proceeding before the trial Court and vide the impugned order dated 10.08.2021 (Annexure P-3), the petitioner was declared as proclaimed person and the concerned SHO was directed to register the FIR under Section 174-A IPC. In compliance of the order dated 10.08.2021 (Annexure P-3), FIR No. 709 dated 30.12.2021 under Section 174-A of IPC (Annexure P-4) was ordered to be registered at Police Station Sector 58, Faridabad. He next contends that the moment, the petitioner came to know about the pendency of the present case, he approached the complainant and entered into a compromise with the respondent No. 2/complainant vide compromise deed dated 11.04.2025 (Annexure P-5). Even, respondent No. 2 appeared before the trial Court and made a statement to withdraw the complaint. Consequently, the trial Court permitted the respondent No.2 to withdraw the complaint on 11.04.2025 vide order annexure P-7. Learned counsel further contends that the very purpose of declaring the petitioner as proclaimed person and to get the impugned FIR registered was to procure the presence of the petitioner and since the main matter already stands compromised between the parties, the

proceedings arising out of the impugned order (Annexure P-3) and FIR (Annexure P-4) are liable to be quashed by this Court.

3. Notice of motion.

4. On the asking of Court, Mr. Rajinder Kumar Banku, DAG, Haryana. accepts notice on behalf of respondent-State.

5. Mr. Tanmoy Gupta, Advocate has put in appearance on behalf of respondent No.2 by filing his power of attorney, which is taken on record.

6. Learned counsel for respondent No.2/complainant does not dispute the factual submissions made by the learned counsel for the petitioner and submits that he has no objection, in case the impugned order dated 10.08.2021 (Annexure P-3) and FIR (Annexure P-4) are quashed by this Court.

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

8. 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.”

9. 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.

10. 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.”

11. In the present case also, the main case has already been withdrawn by the complainant. Consequently, the continuation of the proceedings arising from the impugned order dated 10.08.2021 (Annexure P-3) and the FIR No. 709 dated 30.12.2021 under Section 174-A IPC, registered at Police Station Sector 58, Faridabad, District Faridabad (Annexure P-4) 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”**.

12. In view of the above, the present petition is allowed and impugned order dated 10.08.2021 (Annexure P-3) and the FIR No. 709 dated 30.12.2021 under Section 174-A IPC, registered at Police Station Sector 58, Faridabad (Annexure P-4) alongwith all subsequent proceedings arising therefrom are hereby ordered to be quashed.

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

20.05.2025

(N.S.SHEKHAWAT)

amit rana

JUDGE

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