

2025:PHHC:033769



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

**CRM M-59411 of 2024
Date of Decision: 05.03.2025**

Subhash Chand @ Subhash Chand Sharma ...Petitioner

Vs.

State of Haryana and another ...Respondent

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

Present : Mr. Pardeep Sehrawat, Advocate, for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

Mr. Arvind Thakur, Advocate, for the complainant.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 482 BNSS, 2023 with a prayer to quash the impugned order dated 17.12.2021 (Annexure P-1) passed by the Judicial Magistrate 1st Class, Karnal, whereby, the petitioner has been declared as proclaimed person in a complaint case No. NACT-3202-2019 titled as **“Star Agri Finance Ltd. Vs. Subhash ‘Chand Sharma etc.”** A further prayer has been made to quash the proceedings initiated pursuant to the registration of the FIR No. 1013 dated 26.11.2022 under Section 174-A IPC, Police Station Karnal Civil, Karnal (Annexure P-2) and all consequential proceedings arising therefrom.

2. Learned counsel for the petitioner contends that the petitioner had taken a loan from respondent No. 2, i.e. Agriwise Finserv Limited for his personal work and had kept his house as security for repayment of the loan amount. Ultimately, on dishonour of a cheque, the respondent No. 2 had filed a criminal complaint bearing No. NACT-3202-2019 titled as **“Star Agri Finance Ltd. Vs. Subhash ‘Chand Sharma etc.,** under Section 138 of the Negotiable Instruments Act 1881 (hereinafter to be referred as '**the Act**') before the Court of Judicial Magistrate 1st Class, Karnal. After the passing of the impugned order, the petitioner was ordered to be served by way of summons/warrants. However, the summons/warrants were never served on the petitioner and ultimately, the petitioner was declared as a proclaimed person vide order dated 17.12.2021 (Annexure P-1) passed by the Court of Judicial Magistrate 1st Class, Karnal. Learned counsel further contends that after the impugned order (Annexure P-1) passed by the trial Court, one FIR No. 1013 dated 26.11.2022 under Section 174-A IPC, Police Station Karnal Civil, Karnal (Annexure P-2), was ordered to be registered against the petitioner. He further contends that when the petitioner came to know about the pendency of the proceedings in compliance of order (Annexure P-1), he immediately settled the matter with respondent No. 2/complainant and cleared the loan amount of respondent No. 2. Even, a settlement deed was executed between the parties and respondent No. 2 had withdrawn the main complaint under Section 138 of the Act. Learned

counsel further contends that the very purpose of the impugned order dated 17.12.2021 (Annexure P-1) and FIR (Annexure P-2) was to procure the presence of the petitioner and since the main matter has already stands compromised between the parties, the proceedings arising out of the impugned order (Annexure P-1) and the FIR (Annexure P-2) are liable to be quashed by this 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 from the order dated 17.12.2021 (Annexure P-1) and FIR No. 1013 dated 26.11.2022 under Section 174-A IPC, Police Station Civil Karnal (Annexure P-2) 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 and order dated 17.12.2021 (Annexure P-1) and FIR No.1013 dated 26.11.2022 under Section 174-A IPC, Police Station Karnal Civil alongwith all subsequent proceedings arising therefrom are hereby ordered to be quashed qua the petitioner.

05.03.2025

(N.S.SHEKHAWAT)

amit rana

JUDGE

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