

212 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2025 PHHC:168287



CRM-M-9381-2025 (O&M)
Date of Decision: 02.12.2025

GURINDER SINGH ... PETITIONER
VERSUS
STATE OF PUNJAB ... RESPONDENT

CORAM : HON'BLE MR. JUSTICE H.S.GREWAL

Present:- Mr. Gurmandeep Singh Dhillon, Advocate and
Mr. K.S.Brar, Advocate for the petitioner.

Mr. K.D.Sachdeva, D.A.G., Punjab.

H.S. GREWAL, J. (ORAL)

1. This petition has been filed under Section 528 of the Bharatiya
Nagarik Suraksha Sanhita (BNSS) for quashing of impugned order dated
03.12.2020 (Annexure P-1) passed by learned Judicial Magistrate First
Class, Fazilka vide which the petitioner has been declared as proclaimed
person and subsequent proceedings arising out of the said order whereby
FIR No. 28 dated 01.03.2021 under Section 174-A IPC, 1860 has been
registered at Police Station Fazilka, District Fazilka against the petitioner.

2. Learned counsel for the petitioner contended that the present
FIR is the outcome of a criminal complaint filed against the petitioner under
Section 138 of the Negotiable Instruments Act. He further submits that the
petitioner was declared proclaimed person vide order dated 03.12.2020, in
pursuance thereto FIR No. 28 dated 01.03.2021 under Section 174-A IPC
was registered against him. He further contends that the complainant
appeared before the learned JMFC, Fazilka and made a statement to the

effect that he does not want to pursue with the present complaint and the

same was withdrawn by the complainant. He has referred to the order of the trial Court dated 21.02.2023 (Annexure P-3) in this regard. He, therefore, prays for quashing of the present FIR as the continuation of proceedings under Section 174-A IPC would be an abuse of process of law. He has relied upon the orders passed by this Hon'ble Court in CRM-M-43813-2018 titled as Baldev Chand Bansal Vs. State of Haryana, decided on 29.01.2019 wherein the FIR registered under Section 174-A IPC has been quashed.

3. Learned State counsel submits that the petitioner was rightly declared as proclaimed person, pursuant to which FIR was registered against him under Section 174-A IPC as he had failed to appear before the Court without any reasonable cause.

4. I have heard learned counsel for the parties and have carefully gone through the material available on record.

5. By way of the instant petition, the petitioner is seeking quashing of the present FIR registered under Section 174-A IPC on the ground that the initial complaint bearing NACT-572-2018 has been withdrawn as the complainant does not want to pursue with the present complaint and the continuation of proceedings under Section 174-A IPC would be an abuse of process of law.

6. Hon'ble the Supreme Court, in the case of **Daljit Singh versus State of Haryana and another**, bearing Criminal Appeal No.4359 of 2024, decided on 02.01.2025, has quashed the impugned FIR therein registered under Section 174-A of IPC on the ground that the initial complaint under Section 138 NI Act had been settled between the parties. The relevant extract thereof is reproduced hereunder:-

is nullified i.e., the person subjected to such proclamation, by virtue of subsequent developments is no longer required to be presented before a Court of law. Then, can the prosecution still proceed against such a person for having not appeared before a Court during the time that the process was in effect. The answer is in the affirmative. We say so for the following reasons:-

(i) The language of Section 174A, IPC says “whoever fails to appear at the specified place and the specified time as required by proclamation...”. This implies that the very instance at which a person is directed to appear, and he does not do so, this Section comes into play;

(ii) What further flows from the language employed is that the instance of non-appearance becomes an infraction of the Section, and therefore, prosecution therefor would be independent of Section 82, Cr.P.C. being in effect;

(iii) So, while proceedings under Section 174A IPC cannot be initiated independent of Section 82, Cr.P.C., i.e., can only be started post the issuance of proclamation, they can continue if the said proclamation is no longer in effect.

(iv) We find that the Delhi High Court has taken this view, i.e., that Section 174A, IPC is a stand-alone offence in Mukesh Bhatia v. State (NCT of Delhi)¹⁹; Divya Verma v. State²⁰; Sameena & Anr. v. State GNCT of Delhi & Anr.²¹ For the reasons afore-stated, we agree with the findings made in these judgments/orders. At the same time, it stands clarified that we have not commented on the merits of the cases.

(v) Granted that the offence prescribed in Section 174A IPC is indeed stand-alone, given that it arises out of an original offence in connection with which proceedings under Section 82 Cr.P.C. is initiated and in the said offence the accused stands, subsequently, acquitted, it would be permissible in law for the Court seized of the trial under such offence, to take note of such a development and treat the same as a ground to draw the proceedings to a close, should such a prayer be made and the circumstances of the case so warrant.

8. In conclusion, we hold that Section 174A IPC is an independent, substantive offence, that can continue even if the proclamation under Section 82, Cr.P.C. is extinguished. It is a stand-alone offence. That being the position of 2022 SCC OnLine Del 1023 2023 SCC OnLine Del 2619 CrI. M.C No, 1470 of 2021, Dated 17th May, 2022 law, let us now turn to the present facts. As we have already noted supra, the Appellant stands acquitted of the main offence.”

7. A Coordinate Bench of this Court, in similar circumstances, in the case of **Soni Kumar versus State of Punjab**, bearing CRM-M-55315-2024, decided on 10.01.2025 has quashed the FIR under Section 174-A IPC stating that where the main complaint has been withdrawn, the continuation of proceedings would be an abuse of process of law. The relevant extract thereof is as under:-

“The inherent jurisdiction under Section 528 BNSS, 2023/Section 482 Cr.P.C., 1973 is primarily aimed at preventing abuse of judicial process and securing the ends of justice. Thus, when the dispute is essentially personal in nature and a genuine compromise has been reached, the High Court may intervene to quash the criminal proceedings recognizing the continuation thereof would be non-productive and unjust in the given circumstances. The inherent powers of a High Court are powers which are incidental replete powers, which if did not so exist, the Court would be obliged to sit still and helplessly see the process of law and Courts being abused for the purposes of injustice. In other words; such power(s) is intrinsic to a High Court, it is its very life immanent attribute. Without such power(s), a High Court would have form but lack the substance. These powers of a High Court hence deserve to be construed with the widest possible amplitude. These inherent powers are in consonance with the nature of a High Court which ought to be, and has infact been, invested with power(s) to maintain its authority to prevent the process of law/Courts being obstructed or abused. It is a trite posit of jurisprudence that though laws attempt to deal with all cases that may arise, the infinite variety of circumstances which shape events and the imperfections of language make it impossible to lay down provisions capable of governing every case, which in fact arises. A High Court which exists for the furtherance of justice in an indefatigable manner, should therefore, have unfettered power(s) to deal with situations which, though not expressly provided for by the law, need to be dealt with, to prevent injustice or the abuse of the process of law and Courts. The juridical basis of these plenary power(s) is the authority; in fact the seminal duty and responsibility of a High Court; to uphold, to protect and to fulfil the judicial function of administering justice, in accordance with law, in a regular, orderly and effective manner. In other words; Section 528 of BNSS, 2023 reflects peerless powers, which a High Court may draw upon as

necessary whenever it is just an due process of law, to prevent vexation or oppression, to do justice substantial justice between the parties and to secure the ends of justice.

10. *Keeping in view the entirety of the attending facts and circumstances of the case in hand; especially the original offence being an offence under Section 138 of Negotiable Instruments Act of 1881, the original offence alleged to have been committed in the year 2021, the subject matter of the original offence having been settled amicably between the parties and the criminal complaint under Section 138 of Negotiable Instruments Act, 1881 having been withdrawn on the basis of such settlement/compromise; this Court deems it appropriate that the FIR as also all proceedings emanating therefrom deserve to be quashed.”*

8. Another Co-ordinate Bench of this Court in the case of Deepak versus State of Haryana and another, bearing CRM-M-14623-2021, decided on 17.02.2022, has also held as under:-

“An affidavit was also filed by respondent No.2, which has been annexed as Annexure R-1, wherein in para 4 of the same, it has been stated that respondent No.2-Bank has no objection, in case, the present FIR is quashed against the petitioner because the Bank has received the cheque amount and consequently, the complaint has been withdrawn. Since, the proceedings under Section 138 of the Act of 1881 has been withdrawn and the present FIR has been registered on account of non-appearance of the petitioner, this Court feels that continuance of the proceedings in the present FIR would be an abuse of process of the Court.

Keeping in view the abovesaid facts and circumstances, as well as the authorities of law referred to above, the present petition is allowed and FIR No.969 dated 04.11.2018 registered under Section 174-A of IPC at Police Station Ballabgarh City, District Faridabad (Annexure P-3) and all the consequential proceedings arising therefrom, are ordered to be quashed qua the petitioner.”

9. In the present case, since the original complaint under Section 138 of the Negotiable Instruments Act has been withdrawn as the complainant does not want to pursue with the same, no useful purpose would

be served by continuing the proceedings under Section 174-A IPC against the petitioner.

10. Resultantly, the petition is allowed and FIR No. 28 dated 01.03.2021 under Section 174-A IPC, 1860 registered at Police Station Fazilka, District Fazilka along with all other consequential proceedings arising therefrom against the petitioner, are quashed.

11. Pending application(s), if any, shall also stand disposed of.

02.12.2025
Janki

(H.S.GREWAL)
JUDGE

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