

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

208

CRM-M-28894-2024 (O&M)

Date of decision: 03.12.2025

Sunil Kumar Madhavan Kurup

... Petitioner

Versus

State of Haryana and another

... Respondents

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

Present:- Ms. Tanishq Mehta, Advocate for the petitioner (through VC).

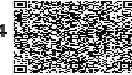
Mr. R.K. Jangra, AAG, Haryana.

Mr. Rohit Rana, Advocate for the complainant/respondent No.2.

H.S. Grewal, J.(Oral)

1. This petition has been preferred by the petitioner under Section 482 Cr.P.C., for quashing of the impugned order dated 03.12.2021 (Annexure P-1) passed by the learned Judicial Magistrate First Class, Gurugram in a case bearing No.NACT/4657/2019, titled as 'M/s Indiabulls Housing Finance Ltd. versus Sunil Madhavan Kurup' whereby the petitioner was declared as a proclaimed person and FIR No.1107 dated 22.12.2021, under Section 174-A IPC, registered at Police Station Shivaji Nagar, Gurugram and consequential proceedings arising therefrom.

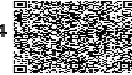
2. The case of the prosecution is that a complaint under Sections 25 and 27 of the Payment and Settlement Systems Act, 2007 was filed by M/s



Indiabulls Housing Finance Ltd. alleging that the petitioner had availed a home loan facility in the year 2014 and had opted for an Electronic Clearing System (ECS) mandate. The petitioner is also alleged to have issued standing instructions to its banker i.e. ICICI Bank Ltd., to debit a sum of Rs.3,614/- from his bank account towards the Equated Monthly Installment (EMI). However, in the month of December, 2018, the installment could not be processed due to 'Balance insufficient' in the account of the petitioner and thereafter, a legal notice was issued to him on 02.01.2019 and upon receiving no response, the instant complaint was filed.

3. Learned counsel for the petitioner submits that the trial Court, without following the procedure under Section 82 Cr.P.C., has declared the petitioner as a proclaimed person and had directed the SHO concerned to register the FIR against the petitioner under Section 174-A IPC, which is unsustainable under the law. It is further submitted that the petitioner is an NRI since 2007 and resides in Dubai. He had not been served any notice on the correct address and was not aware about the instant complaint. It is further submitted that the matter has been settled and the complainant has withdrawn the aforesaid complaint before the trial Court. He, therefore, prays for quashing of the impugned order as well as the aforesaid FIR as the continuation of proceedings would be an abuse of process of law.

4. Learned counsel for the respondent No.2/complainant submits that the matter has indeed been settled between the parties as the whole amount has been received and the complaint was withdrawn by the complainant. He also submits that he has no objection if the proclamation order and the FIR are quashed.

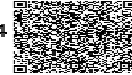


5. I have heard learned counsel for the parties and have carefully gone through the material available on record.

6. It is apparent that a complaint under Sections 25 and 27 of the Payment and Settlement Systems Act, 2007 bearing NACT/4657/2019, titled as 'M/s Indiabulls Housing Finance Ltd. versus Sunil Madhavan Kurup' was filed by respondent No.2 wherein the petitioner was summoned for the alleged default of an EMI. However, due to his non-appearance, he was declared as a proclaimed person and the SHO concerned was directed to register a case under Section 174A IPC against the petitioner and as a result thereof, the aforesaid FIR has been registered.

7. By way of the instant petition, the petitioner is seeking quashing of the proclamation order along with the FIR registered under Section 174-A IPC on the ground that the matter has been settled between the parties and the continuation of proceedings would be an abuse of process of law.

8. Hon'ble the Supreme Court in the case of **Suresh C. Singal and others versus The State of Gujarat and others**, bearing Criminal Appeal No.3862 of 2024, decided on 16.04.2025, had observed that the High Court in exercise of its powers under Section 482 of Cr.P.C. 1973 and specially under Article 226 of the Constitution of India ought to quash criminal proceedings where such course of action would be just and equitable in the present facts. Moreover, the disputes which primarily and basically are civil or financial in nature and the matter stands settled between the parties and the aggrieved party has no objection, such criminal proceedings can be quashed as it would be an exercise in futility causing undue hardship and harassment to the parties and



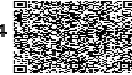
would amount to an abuse of process of law. The relevant extract thereof is reproduced as under:-

“The aspect with regard to the powers exercisable by the High Court while exercising its jurisdiction under Section 482 Cr.P.C. stands concluded vide decision of this Court in Sushil Suri v. Central Bureau of Investigation and Another¹¹, where it has laid down that the inherent jurisdiction may be exercised by the High Court, namely; (i) to give effect to an order under the Cr.P.C.; (ii) to prevent an abuse of the process of Court; and (iii) to otherwise secure the ends of justice. It has also been held to be a power which, although possessed by the High Court, has to be exercised sparingly with great caution and care to do real and substantial justice, for which alone, the Court exists. The exercise of inherent power is to be kept open exercisable by the Court depending upon the facts and circumstances. The discretion, therefore, has been left to the Court. The Court, thus, being the custodian and the guardian of the said powers, although enabling, exercises self-controlled jurisdiction.

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*This Court in the case of **Narinder Singh (supra)**, also observed that the stage and timing of the settlement play a crucial role in determination as to whether to exercise power under Section 482 of the CrPC 1973 or not. It was observed that cases where settlement has arrived at either immediately or in close vicinity after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceeding/investigation. Likewise, in cases where charge is framed but the evidence is not yet started or is at the infancy stage, the High Court may exercise its power by showing benevolence after prima facie assessment of circumstances and material mentioned. 23. The facts in this case would be as per the above aspect and therefore this would also persuade this Court to accept the prayer of the Appellants to hold that the High Court should have exercised its powers and jurisdiction under Section 482 to quash the proceedings.”*

9. Moreover, 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 had quashed the impugned FIR registered under Section 174-A IPC as well as the order declaring the petitioner therein as proclaimed person, 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:-

“7.3 Now, what happens if the status under [Section 82](#) Cr.P.C. 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;

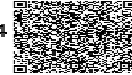
(ii) What further flows from the language employed is that the instance of non-appearance becomes an infraction of the Section, and therefore, prosecution therefore would be independent of [Section 82](#), Cr.P.C. being in effect;

(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. State](#)²⁰; [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.

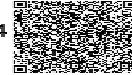


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11. *The Appellant has been acquitted which means that there is no case for which his presence is required to be secured. Resultantly, the appeal is allowed. In the attending facts and circumstances of the case, i.e. that the original offence pertains to the year 2010; the money subject matter of dispute stands paid, the judgment of the High Court with the particulars as mentioned in paragraph 1 of this judgment, stands quashed and set aside. All criminal proceedings, inclusive of the FIR under Section 174A IPC, shall stand closed. The Appellant's status, as a 'proclaimed person' stands quashed."*

10. In similar circumstances, a Coordinate Bench of this Court, in the case of **Soni Kumar versus State of Punjab**, bearing CRM-M-55315-2024, decided on 10.01.2025, has quashed the proceedings along with FIR registered 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.”

11. In the present case, since the matter has been settled between the parties and nothing is due towards the petitioner and this fact is not denied by the counsel for respondent N.2, this Court is of the considered view that no useful purpose would be served by continuing the proceedings arising therefrom against the petitioner.

12. Consequently, the present petition is allowed. The impugned order dated 03.12.2021 as well as FIR No.1107 dated 22.12.2021, under Section 174-A IPC, registered at Police Station Shivaji Nagar, Gurugram along with all consequential proceedings arising therefrom are hereby quashed qua the petitioner.

13. Pending application, if any, shall stand disposed of accordingly.

(H.S. GREWAL)
JUDGE

December 03, 2025
Janki/A. Kaundal

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